

516. K. 9. 15. F. 12

THE  
L A W S  
OF  
*Appeals and Murder:*

CONTAINING

- I. The Nature of Appeals in General; how commenced, and by whom prosecuted in all Cases.
- II. Of Appeals and Murder, Manslaughter, &c. wherein are explained in numerous Instances, and adjudged Cases, Malice prepensed, the Laws of Duelling, Murder in Arrests, Riots, &c. Commanding to Kill, Intentions of Killing, Poisoning, Petit Treason, Stabbing, Justifiable Homicide, Homicide Excusable, &c. And also of Indictments for Murder, with a very great Variety of Select Precedents.
- III. Of Maihem, Rape, &c. The Laws and Statutes concerning them, and Appeals on those Heads; illustrated in several extraordinary Modern Cases, particularly of Rape: And Proceedings on Appeals of Murder, &c. With particular Directions for the entire Management of that Business.
- IV. Latin Precedents in the whole Course of Appeals, (*viz.*) Original Writs, Declarations, Pleadings, *Certiorari's ad Removend.* &c. The Pleadings perused and approved by Sir Peter King, present Lord Chief Justice of the Common Pleas, and Mr. Eyre, now one of the Justices of the King's Bench, and other celebrated Counsels.

Compil'd from the Manuscripts of an Eminent Practiser,  
late of *Lincoln's Inn*, deceased.

By G. JACOB, Gent.

To which is added,

An Appeal of Murder brought by *Henry Young* against *Christopher Slaterford* for the Murder of his Sister, tried at the Queen's Bench Bar, where the Defendant was convicted, and was afterwards executed at *Guilford* in the County of *Surrey*. *Anno 8 Anne Reg.* 1709.

ALSO

An Appeal brought by *Reeves* against *Trindle* who was Accessary to the Murder of a Custom-House-Officer on the Coast of *Sussex* and convicted.

In the SAVOR: Printed by *Eliz. Nutt*, and  
*R. Golling*, (Assigns of *Edward Sayer*, Esq;) for  
*Bernard Lintot*, between the Temple-Gates. 1719.



THE  
J. A. W. S.

OF

Apprentices and Murderers.

CONTAINING

The history of Apprentices, how commenced,

and of their progress in the world.

By J. A. W. S.

London: Printed by J. A. W. S.

1795.

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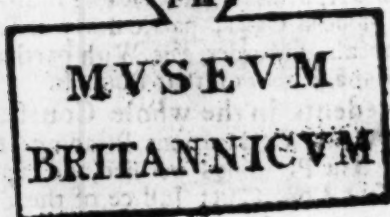
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By J. A. W. S.



Sir

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this  
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*The Dedication*  
*Full of Mr. Gale's Papers, with*  

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*Relation to the History of*  
*against Love and Honour*

To the Right Honourable  
Sir *PETER KING*, Kt.  
Lord Chief Justice  
OF THE  
COMMON PLEAS.

*My Lord,*

**T**HERE is nothing could  
embolden me to at-  
tempt a Dedication of  
this Treatise to your Lord-  
ship, but your Lordship's Pe-  
A 2 rusal

*The Dedication.*

refusal of Mr. *Gale's* Papers, with  
Relation to the Appeal of *Fox*  
against *Lowe* and *Cotton*.

Your being retain'd as a  
Counsel in that memorable  
Cause with Mr. Justice *Eyre*,  
give you at least a Claim to  
the following Performance,  
were it so compleatly finish'd,  
and elegantly dress'd, as to  
merit your Lordship's Patro-  
nage.

As it is, I fear I have been  
too rash and precipitate; and  
I humbly ask your Lordship's  
Pardon for a Freedom of this  
Nature, which I confess I  
have taken without consult-  
ing

*The Dedication.*

ing your Lordship; and for this I have nothing to depend upon, but your extensive Good Nature to excuse my Presumption.

But your generous Temper is not more to be admir'd, than your great and numerous Qualifications: It is highly obvious, that the most consummate and impartial Lawyer, the faithful Counsellor, the eminent Divine, the Man of Excellency in Literature, and of great Humanity, center in my Lord Chief Justice *King*.

In You we see a second  
*LITTLETON*. From your  
Hand



*The Dedication.*

Hand Justice is distributed  
with an exact Equality ; Per-  
sons of all Ranks, Parties, and  
Religions partake of the same  
Determinations , and your  
Sentence is always *Righteous*.

That your Lordship's Life  
may be extended to the long-  
est Date, as the great Pillar  
and Ornament of the Law,  
are the hearty Wishes of,

*My Lord,*

*Your Lordship's most humble*

*and most Obedient Servant,*

**Giles Jacob.**

# P R E F A C E.

**T**HE observing Reader on Perusal of this Treatise, will easily discover that the Manuscripts mentioned in my Title-Page, are the Products of Mr. Gale late of Lincoln's Inn; a Gentleman celebrated for his Drawings, particularly Pleadings in Cases of Appeal.

These Manuscripts contain (amongst several other Modern Cases, Pleadings, &c.) all the Proceedings in one of the most extraordinary Trials of Appeal, for Variety, we have had in this Age, and they make near one Hundred Pages in this Volume, which is a Foundation of new and instructive Matter rarely to be met with at this time in our Books of the Law; And I hope it will appear that my Collection of the Laws and Statutes on this Subject, has been dispatch'd with the Exactness necessary, on so nice a Subject.

I have consulted a very great Number of our Authors of the best Reputation, in this Composure; and if I am calumniated by any Brother of the Quill, for borrowing from other Men's Labours, (not to mention the liberty some Gentlemen have already taken with my Writings) I am perfectly easie with my self, when I consider that the great Sir Edward Coke takes upon him no other Denomination than that of a Collector; And there is not an Author of the Law now existing, but his Performance may for the most part be traced through by a careful and indefatigable Study, particularly with relation to Matters of the Crown, the popular Business, in the most material Branches of this Treatise.

But

## THE PREFACE.

But however, I have the Pleasure of declaring to the Publick, that none of my Productions which have yet appear'd in the World, are without a Variety of new and adequate Matter: No Exceptions are taken on this Head; and though some of my Pieces first wrote have (but not unexpectedly) been cavill'd at by a few Persons more nice than judicious, for Want of the Recommendation of Dress, it is my great Satisfaction that the Famous Littleton has very short Introductions to his numerous Branches; neither were any of our Sages of the Law of Antiquity fond of unnecessary Imbellishments; but admitting them to be necessary, I am not without hopes that I have atton'd for Deficiencies of this kind, by what is more substantial, viz. Method and Information.

Though I labour under Misfortunes, it is a Pleasure to me to think that the generous part of Mankind will be so good natur'd as to allow me some share of Reputation: 'Tis far from being Humane to make Calamities an Objection to any Person's Character; I for my part have hitherto experienced the contrary, from the candid Construction my Performances in general have found with the Publick: And I live in Expectation that by a constant Assiduity in the most laudable Studies, I shall verifie the Ancient Phrase.

Labor improbus vincit omnia.

It remains that I should say something further in particular concerning this Undertaking, but I have little to observe by way of Introduction or Apology; when you come to the Latin Precedents relating to Appeals, you'll find some things repeated almost Verbatim, which has been occasion'd to shew you the entire Proceedings at large, and therein the several Ways, by several Hands, of Drawing one and the same Instrument.

G. J.

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THE  
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APPEALS  
AND  
MURDER.

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*The Nature of Appeals in General.*

**A**PPEAL, is deriv'd from the French word *Appel* *defn'd.*  
*Appeller*, signifying to accuse. *Co. Lit.*  
*Lib. 2. c. 11.* And is frequently us'd in  
the Common and Civil Law, on the Re-  
moval of a Cause from an inferiour Judge to a Su-  
perior ; but more commonly for the private Accu-  
sation of a Murderer, by a Person who had Interest  
in the Party kill'd. *Co. Lit. f. 287.*

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## The Laws of

These last Appeals, and of Maihem, Rape, Robbery, &c. are the Subjects I purpose to handle in this Treatise; and the Learned *Bracton* defines *Appeal* to be a lawful Declaration of another Man's Crime (being Felony at least) before a competent Judge, by one that sets his Name to the Declaration, and undertakes to prove it, upon the Penalty that may ensue to the contrary. *Bracton Lib. 3.*

*Appeal* in some of our Law-Books is said to come from *Appello*, to call, because *Appellans vocat reum in Judicium*. *Co. Lit. Lib. 3. 287.* And according to *Bracton*, *Appello* in the Common Law is as much as *Accusatio* with the Civilians: For as in the Civil Law, Cognizance of Criminal Causes is had either upon Inquisition, Denunciation or Accusation, so in ours it is taken upon Indictment or Appeal; Indictments comprehending both Inquisition and Denunciation.

*Appeal of  
Maihem,  
Rape, &c.*

Appeal of Maihem is an Accusing of one that hath maim'd or wounded another; but this being no Felony, the Appeal thereof is but, in a manner, an Action of Trespass, because there is nothing recover'd but Damages. *Bracton Lib. 3.*

Appeal of Rape lies where a Rape is committed, (*viz.*) where a Man hath unlawful and carnal Knowledge of a Woman by Force, and against her Will, which is Felony by the Common Law; but *Emissio Seminis*, without Penetration, is no Rape. *Co. Lit. 123. 3. Inst. f. 60.*

By our Ancient Laws, the Party ravish'd, if she gives Consent either before or after, can bring no Appeal; but if she neither before nor after give such Consent, she may appeal. *13 E. 3 Coron. 122.* And the Statute *11 H. 4. c. 13.* gives Power to a Husband, or Father, or next of Blood, there being no Husband, to bring an Appeal of Rape, where a Woman is ravish'd, and afterwards gives her  
Consent.

## Appeals and Murder.

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Consent. And by the 6 R. 2. it is enacted, That the Party ravish'd, if she afterwards consent to the Ravisher, and the Ravisher shall be disabled to challenge Inheritance, Dower, or joint Feoffment, &c. and that the next of Blood should enter, &c.

Appeal of Robbery was a Remedy given at Common Law, where a Party was robb'd of Goods, to have the Goods restor'd to the Person from whom taken; for a Man could not have Restitution upon an Attainder, or an Indictment, because that was at the Suit of the King. 3 *Inst.* 242.

This Law being defective in case of several Appeals brought against one Person; as where a Robbery is committed by one Man upon three, and they all bring Appeals against him, and he is attainted and executed at the Suit of one of the Appellants, the other two cannot be restor'd to their Goods, because the Robber being dead, cannot be attainted; the Statute 21 H. 8. gives Power to Justices to award Restitution of the Goods taken immediately after the Offender is found Guilty. 2 *Inst.* 320. And by this Statute Restitution is to be granted on an Indictment, &c. 3 *Inst.* 242.

Then there is another Appeal in case of Robbery, (*viz.*) where a Person having committed Felony or other Crime, and confessing, *Appeals*, that is, accuses others who were Accomplices with him.

An Appeal is commenced two Ways, either by Writ or Bill; Appeal by Writ is when a Writ is purchased out of the Chancery by one to another, to this End, that he appeal a third of some Felony committed by him, finding Pledges that he shall do it, and deliver this Writ to the Sheriff to be recorded. Appeal by Bill is where a Man of himself gives up his Accusation in Writing to the Sheriff or

*Appeals,  
how com-  
menced,  
and by  
whom  
brought,  
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Coroner,

Coroner, offering to undergo the Burden of Appealing the Person therein nam'd. *Bracton.*

In our Ancient Books he that appeals is call'd *Accusator*; but at this time he hath the Denomination of *Appellor* or *Appellant*, and is in legal Signification peculiarly applied to Appeals of three sorts: First, of Wrong to an Ancestor, whose Heir male he is, and that only of Death: The second is of Wrong to the Husband, and is prosecuted by the Wife for the Death of her Husband: And the third is of Wrongs done to the Appellants themselves, as Robbery, Rape and Maihem. *Co. Lit. f. 287.*

Appeals are to be brought within a Year and Day after the Death of the Person; and if the next Heir of the Deceased who ought to prosecute, be within Age at the time of the Death of his Ancestor, he must nevertheless commence his Appeal within the Year, and proceed in his Minority. *2 Inst. 320.*

There lay an Appeal of High Treason by the Common Law, before the Statute, *1 H. 4. c. 14.* And at Common Law, a Woman might have an Appeal for the Death of her Ancestor; but by *Magna Charta*, 'tis enacted, *Quod nullus capiatur, aut imprisonetur, propter Appellum feminae de morte alterius quam viri sui.* *1 Inst. 25.*

But the Son of a Woman may have an Appeal, (being Heir at the Death of the Ancestor) for the Son is not disabled, but the Mother only. *2 Inst. 68.*

The Writ of Appeal of a Woman for the Death of her Husband is annex'd to her Widowhood; so that if the Wife of the deceased marry again, her Appeal is gone, although the second Husband die within the Year; for she must, before any Appeal brought, continue *femina viri sui*, upon whose Death she brings her Appeal. *11 H. 4. c. 46.* *2 Inst. f. 69.* If



## Appeals and Murder.

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If she brings her Appeal during her Widowhood, and hath Judgment of Death against the Defendant; if she after take Husband, the Appeal shall abate, and she can never have Execution of Death against him. *Stat. 11 H. 4. c. 46.*

A Wife who hath Right to appeal must be such as the Deceas'd was possess'd of at the time of his Death; for she must be his Wife both of Right and in Possession. And *unques accouple in loial Matrimony*, is a good Plea against such an Appeal. *2 Inst. 68.*

If a Husband attainted of High Treason or Felony, be slain, his Wife shall notwithstanding the Attainder have an Appeal, as he was her Husband; but the Heir cannot have an Appeal, for the Blood is corrupted. *35 H. 6. c. 63.*

And if a Person attainted be beaten or maim'd, or a Woman attainted be ravish'd, after Pardon, they shall have either Actions of Battery, or Appeal of Maihem, or Rape. *3 Inst. f. 215.*

A Woman at this Day may have an Appeal of Robbery, &c. for she is not restrain'd thereof. *2 Inst. 68.* And if a Woman be slain, her next of Kin may maintain an Appeal of Murder. *3 Mod. Rep. 157.*

An Hermaphrodite, if the male Sex be predominant, shall have an Appeal of Death as Heir; but if the female Sex prevails, no Appeal lies for her as Heir. *2 Inst. 69.*

If there be a nearer Heir to the Person kill'd, the next Heir male cannot have an Appeal; as if he that was kill'd had only a Daughter, his Brother shall not have an Appeal. And if one Brother be slain, the other Brother, of the half Blood, shall never have an Appeal. *Co. Lit. 14.*



An Ideot, Monk, or Man mute, shall have no Appeal, neither of Death, nor otherwise. H. P. C. 183.

Murder,  
and Homicide  
de-  
fin'd.

Appeal of Death is of two Sorts; Murder and Homicide. Murder is where a Person wilfully and with premeditated Malice kills another. Homicide, or Manslaughter, is the killing of a Man without any Malice, upon a sudden Provocation; and it differs from Murder in that it is done without Malice premeditated, and from Chancemedley in that it hath a present Intent to kill. Chancemedley, or *per infortunium*, is when one is slain casually by another, without any Intent to hurt; but of this no Appeal doth lie. 1 Inst. 287.

In former Times there could be no Proceeding on an Indictment for Murder 'till the Year and Day was expir'd, in which time the Party might bring an Appeal; but this was not *in Provisione Legis*, but at the Discretion of the Justices, who apprehended that the Person most nearly related would be most zealous in prosecuting the Criminal. Kel. 95.

Thus much of the Nature of Appeals, &c. in General, I now proceed to the Laws and Statutes, and Variety of adjudg'd Cases relating to Appeals and Murder, (especially the latter, which is the Foundation of the Appeal) Maihem, Rape, &c. before I treat of the particular proceedings in prosecuting of Appeals; and first concerning Murder.

*Of Murder, Manslaughter, justifiable Homicides, &c. and the Laws and adjudg'd Cases thereto relating.*

**A**S I have already observ'd, 'tis prepens'd Malice which makes an Offender guilty of Murder; and this Malice is either express or implied; express, when it may be evidently prov'd there was formerly some Ill-will; implied, when one kills another suddenly, having nothing to defend himself, as going over a Stile, or such like.

*Malice, Provocations, &c.*

And Malice is a Design form'd of doing Mischief to another; and if it doth not rise so high as Death, but to beat a Man, or dispossess him of his Lands, if Death ensues, it is Murder.

If a Man doth a cruel Act voluntarily, he doth it of Malice prepens'd; if a Man without any Provocation stab another, this is express Malice, notwithstanding it be sudden; for he designedly and purposely did him the Mischief, though he conceal'd his intent. And the Law implies a Malice where any Mischief is done on a sudden, as cutting out the Tongue, &c. of another. *Kel. 127. H. P. C.*

49.

Two Persons playing at Tables fall out in their Game, one upon a sudden kills the other with a Dagger: This was held to be Murder. *Kel. 128.*

If one Man kill another, and no sudden Quarrel appeareth, this is Murder. *Co. 9. Rep. 67. Makkelly's Case*; and it lies upon the Party indicted to prove the sudden Quarrel. *Kel. Rep. 27.*

## The Laws of

If two Men fall out in the Morning, and meet and fight in the Afternoon, and one of them is kill'd, this is Murder; for there was time to allay the Heat, and their After-meeting is of Malice. *Kel. 27.*

Two Men having Words grew to Anger, but afterwards they conquer'd their Passion, so far as to converse on another Subject for some time, so that it was reasonable to suppose there might be a Reconciliation between them; but afterwards they drew their Swords one upon the other, and fought, wherein one of them was kill'd; adjudg'd Murder. *Kel. Rep. 56.*

If a Man drunk killeth another, it is Felony: And no Words, be they what they will, as to call a Man Son of a Whore, or to give him the Lye, &c. or Gestures, though never so reproachful, are in Law esteem'd such a Provocation as to diminish the Crime of Murder; unless upon those Words both the Parties suddenly fight, and one kills the other; when it may be only Manslaughter. *Kel. Rep. 55. Lord Morley's Case.* And Words, as to say a Man deserves to be stuck, before the Quarrel, carry no Imputation of Malice. *Quinn's Case, An. 4. Geo.*

A Hackney-Coachman demanding his Fare, gave a Gentleman very scurrilous Language, whereupon the Gentleman drew his Sword and kill'd him; adjudged Murder; and he was hang'd, notwithstanding he pleaded that the Coachman struck him with his Whip, and offer'd other Violence. *Anno 3 Ann. Harlackenden's Case.*

But if a Man shall pull another by the Nose, or philup him upon the Forehead, the Crime will be only Manslaughter, if the Person so assaulted shall draw his Sword, and run the other through; for the Peace is first broken by the Person kill'd. *Style Rep. 467. Buckner's Case.*

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## Appeals and Murder.

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On *Monday* a Man beat another, on *Tuesday* the other took him who made the first Assault by the Nose; and on *Wednesday* the Person, took by the Nose, made a wry Mouth at the other, whereupon he came out of his House with a short Sword, and gave him a Stroke, whereof he died; the Court directed the Jury to find this Murder. *Noy Rep. 171.*

And a Jury were fin'd 5 *l.* a Piece for bringing in a Verdict of Manslaughter, contrary to the Direction of the Court; but this was where it appear'd upon Evidence that the Person was kill'd without any Provocation. *Kel. Rep. 50.*

If two Persons are in Company together, (as suppose A. and B.) and B. shall give contumelious Language, whereupon A. draws his Sword and makes a Pass at B. (B. then having no Weapon drawn) but misses him; thereupon B. draws his Sword and makes a Pass at A. and there being an Interchange of Passes between them, A. kills B. This is adjudg'd Murder in A. for A.'s first Pass at B. was malicious, and what B. did afterwards was lawful. *Kel. Rep. 130.*

But if A. who had been so provok'd, draws his Sword, and then before he makes any Pass, B.'s Sword is drawn; or A. bids him draw, and he draws accordingly, whereupon there happen to be mutual Passes: If A. kills B. this will be but Manslaughter, because it was sudden, and A.'s Design was not so absolutely to destroy B. but to combat with him, whereby he runs the Hazard of his own Life at the same time. *Kel. 131.*

If two happen to fall out upon a sudden, and presently agree to fight, and each of them fetch a Weapon, and go into the Fields, and there one killeth the other, he is guilty of Manslaughter only,



ly, because he did it in a Passion, before his Heat of Blood was cool'd. 3 *Inst.* 51. *H. P. C.* 48.

But where-ever two Persons in cool Blood meet, and fight on a precedent Quarrel, and one of them is kill'd, the other is guilty of Murder, and cannot help himself, by alledging that he was first assaulted by the Deceased; or that his Intentions were only to vindicate his Honour; that he meant not to kill, but to disarm his Adversary, &c. for it being an unlawful Act perpetrated with Deliberation, a Man must answer for all the Consequences. 1 *Bulst.* 86. 2 *Bulst.* 147. 3 *Bulst.* 171.

*Duelling.*

If a Man shall challenge another, who at first refuseth to fight him, but afterwards upon Importunity meets and kills him, 'tis Murder. 1 *Roll. Rep.* 360.

In Duelling, not only the Principal, who actually kills the other, but also his Seconds are guilty of Murder, whether they fought or not; and some of our Books tell us that Seconds of a Person kill'd are likewise equally Guilty, in respect to the Encouragement they give to their Principals, in the Execution of their Purpose, and accompanying them therein, &c. *H. P. C.* 51.

But this last seems too severe a Construction upon the friendly Office and Intention of the Second, he being so far from intending any Mischief to his Friend, that he is ready to hazard his Life in his Quarrel; and 'twould be very hard to make him the Murderer of his Friend, with regard to those Considerations; though this Opinion deters countenancing Duelling, and encourages a friendly Accommodation, as acting contrary would be perilous.

A. and B. quarrel, and appoint the Field; A. takes C. his Second, and B. takes D. his Second; A. kills

## Appeals and Murder.

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kills B. This is doubtless Murder in C. and it hath been held Murder in D. also, but some of our Books contradict it. *Dalt. c. 145. Dyer 128.*

A. and B. having Malice, engage in a Duel, C. a Stranger, takes part with A. who kills B. It's but Manlaughter in C. because he knew not of the Malice, though it be Murder in A. 14 *Jac. Sir Ferdinand Cary's Case.*

And sometimes Persons furnishing others with Weapons, are very near equally guilty with Seconds; as where there is a sudden falling out between two Persons, and one of them breaks his Sword, and a Stranger standing by, lendeth him another with which he kills his Adversary; 'tis Manlaughter in the Person lending the Sword, as well as the other. *Sid. 254.*

If one gives Provocation, and sends a Challenge to another, and the other accepts it; whereupon they meet and fight, and he which sends the Challenge is kill'd, this is Murder: For the Law has no Regard to the Person who begins the Quarrel, where a former Quarrel is depending, and the Malice still continues until the last Stroke given. But if they are once reconcil'd for the first Matter, and afterwards happen to fall out again suddenly and fight, so that one of them is kill'd, it is but Manlaughter. *Term. Pasch. 14 Jac. 1. Tavernor's Case.*

And if one Man wound another in a Duel; and afterwards they meet and fight a second Time, and the Person wounded kills the other, 'tis Murder in him; for Malice shall be intended upon his former Hurt; but if the other kill the wounded Man, 'tis only Manlaughter in him, because it shall be intended his Malice was appeas'd by giving the Wound. *Dalt. 345. Lamb. 251.*

IF

If A. and B. commence a Quarrel, and A. tells B. that he will not strike him, but that he will give B. a Pot of Ale to strike him, and thereupon B. strikes A. and A. kills him, he is guilty of Murder. *H. P. C. 48.*

And if A. challenge B. who refuses to meet him, but with Design of evading the Law, he tells A. that he shall go the next Day to such a Town about his Business, and accordingly A. meets B. the next Day on the Road, and assaults him, whereupon they fight, and B. kills A. he is guilty of Murder, unless it appear by the whole Circumstances that he gave A. such Information accidentally. *H. P. C. 48.*

If A. hath Malice against B. and he meets and striketh him, and then B. draws upon A. and A. flies back to the Wall, and then kills B. this is Murder, notwithstanding his flying to the Wall; for that will not excuse the Malice which he had, which is inquirable, and if the Malice be found by the Jury, then his Flight is so far from excusing the Crime, that it aggravates it. *Fitz. Coron. 287. Kel. 58.*

Whenever any Person kills another on a sudden Quarrel, and it fully appears by Circumstances, that he was Master of his Temper at the Time; as if after the Quarrel, a Man have so much Consideration as to say that the Place where the Quarrel happens, is not convenient for fighting; or that if he should fight at present, he should have the Disadvantage, by reason of the Height of the Heels of his Shoes; or discourse and talk calmly on the Occasion of the Quarrel, &c. he is guilty of Murder. *1 Sid. 177. 1 Lev. 180.*

If a Man draws his Sword upon another, and pushes at him before the other's Sword is drawn, and a Fight ensues, and the Person making the

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Assault kills the other, it is Murder, as I have already observed; for assaulting a Man in this manner, without giving him time to be upon his Defence, shall be constru'd that he intended not to fight with him, but kill him. *Dalt. 93. Crom. 23.*

And it is unreasonable if one Man draw upon another, and run at him without any Provocation, that the other should stand still, and not defend himself; and it is also unreasonable that his Endeavours to defend himself should lessen the Crime of him who set upon him without Provocation. *Kel. 61.*

When any Man is dangerously assaulted, so that his Life is in Danger from his Adversary, he may not only defend himself, but he has Liberty, for the Security of his Person, to pursue him that maliciously assaulted him; for he that hath manifested that he hath Malice against another, is not fit to be trusted with a dangerous Weapon in his Hand. *Dalt. 292.*

If A. of Malice premeditated, discharge a Pistol at B. and then runs away, B. pursues him, and A. turns back, and in his own Defence kills B. it is Murder; for A. had a malicious intent against B. And his Retreat after he had discharg'd his Pistol at B. was not because he repented, but for his own Safety. *Kel. 129.*

In a set Duel there are mutual Passes made between the Combatants; yet if there be original Malice between the Parties, it is not the Interchange of Blows will make any Alteration, or be any Mitigation of the Offence of Killing. *Kel. 129.*

To challenge another, either by Word or Letter, to fight a Duel; or to be the Messenger of such a Challenge, or endeavour to provoke another to send a Challenge, or to fight, as by dispersing Letters full of Reflections, &c. to that purpose, is a very high Offence. *3 Inst. 158. 2 Rol. Abr. 78.*

Persons



Persons convicted of barely sending a Challenge, have been adjudged to pay a Fine of 100 l. and imprison'd for a Month; for where Persons coolly and deliberately engage in a Duel, there is an apparent Danger of Murder; and it being a Defiance of the Law, and Contempt of Justice, it puts a Man under a Necessity of righting himself. 1 Sid. 186. Poph. 153. Moore 563.

But notwithstanding Duelling is unlawful between Subject and Subject, we have Instances of Challenges amongst Princes, which would have been lawful if they had been warranted by publick Authority. 3 Inst. 159.

King *Edward* the Third, in the sixteenth Year of his Reign, being at War with *France*, out of his personal Bravery and Greatness of Mind, and to prevent the Effusion of Christian Blood, and make a speedy Trial of his Right to the Crown of *France*, offer'd to fight the *French* King in single Combat, but he refus'd it. 3 Inst. 159.

And the Year 1196, *Phillip* King of *France* sending a Challenge to *Richard* the First, that he would chuse five for his Part, and he, the King of *France*, would appoint five for his Part, to fight in Lifts for determining all matters in Controversy between them; King *Richard* accepted the Challenge, but like a *British* Heroe, insisted that the *French* King and himself should be of the Number, which would not be granted.

*Richard* the Second likewise offer'd a single Combat with King *Charles* of *France*. And these seem to be warranted for determining a Right, (as in case of our ancient Writs of Right) by the Combat of *David* and *Goliath*, mentioned in the *Old Testament*.

If two Men quarrel, and afterwards are actually engag'd in fighting together, and another run-

ning

## Appetite and Murder.

15

ning in to the Assistance of the one of them, kills the other, this is but Manslaughter, because there was an actual fighting and striving with Violence. *Kel. Rep. 61.*

And if there are two Persons fighting, and others looking on, who do not use their Endeavours to part them, and in the fighting one of them is kill'd, the Persons looking on may be indicted and fin'd. *Noy Rep. 50.*

If a Man wounds another, and the Person wounded neglects his Cure, or refuses to live and keep within that Rule which a Person wounded should do; yet if he die, it is Murder or Manslaughter, according as the Crime shall appear in the Person who gave the Wounds; because if the Wounds had not been given, the Man had not died. *Kel. Rep. 26.* I take this Law to be grounded on a strong Presumption, that every Man will do at least what is necessary for the Preservation of his Life, in such a Case, and not throw away himself, to bring the Vengeance of the Law upon his Adversary.

But no Person shall be adjudg'd by Wounding, or any Act whatsoever to kill another, who doth not die thereof, within a Year and a Day after; and the Day whereon the Wound was given shall be reckon'd the first. *H. P. C. 55. Dalr. c. 93.*

A. threw a Bottle at B. which struck him on the Head, and immediately drew his Sword and gave him a mortal Wound; but between the drawing of the Sword and giving the Wound, B. threw another Bottle at A. with which he broke his Head, but he had no Sword drawn; this was adjudg'd Murder in A. and of Malice prepensed; for the throwing of the first Bottle was with a malicious intent, and the drawing of his Sword was to prosecute his Intentions; and though B. return'd a

*Dangerous  
Weapons.*

Bottle at A. before the Wound was given, that does not alter the Case; it was lawful in him, for he might have justified in an Action of Assault and Battery, and therefore it cannot be any Provocation to stab him with his Sword. *Mawgridge's Case, Kel. 128.*

And if the Bottle had been return'd by B. before the Sword was drawn by A. it would nevertheless have been Murder. *Kel. 129.*

When a Man attacks another with a dangerous Weapon, without any Provocation, it is express Malice from the Nature of the Act, which is cruel. *Lord Morley's Case.*

If a Man commit a Trespass upon another, by breaking his Hedges, or the like; and the Owner or his Servant shall upon Sight thereof take up a Hedge-stake and knock him on the Head, that will be Murder, because it was a violent Act, beyond the Proportion of the Provocation, *Halloway's Case.* But if upon provoking Language given, one Man give another a Box of the Ear, or a little Blow with a Stick, which happens to be so unlucky as to kill him, through some Imposthume, or other Ailment in his Head, this Blow, though not justifiable by Law, yet it is but Manslaughter, because it doth not appear that he design'd such a Mischief. *Kel. Rep. 121.*

If a Man upon a sudden Disappointment by another resort to that other Man's House in a violent Manner, to expostulate with him, and with his Sword endeavour to force his Entrance, to compel the other to perform his Promise; and the Owner of the House shall set himself in Opposition to him, and he shall pass at him, and kill him, this is Murder. *2 Roll. Rep. 460. Clement against Sir Cha. Blunt, in an Appeal of Murder.*



To kill a Man defending his House is Murder, though there appears to be no Malice prepensed; and a Man may kill another attempting to commit Burglary, or to murder him, &c. and if he be indicted for the Death of a Person in such a Case, and the same shall be found by the Jury, he shall be acquitted. *Stat. 24. H. 8. c. 5.* And a Man may shoot at a Person coming to burn his House, &c. and if he kills him 'tis no Felony. *Dalt. c. 150.*

Next to Violence committed in Houses, &c. I proceed to Arrests, Riots, &c. Two Persons came to a Man's Chamber to demand a Debt of a third Person; one of them took a Sword that hung up, and was in the Scabbard, and stood at the Door with it in his Hind undrawn, to keep the Debtor in till they could send for a Bailiff to arrest him; thereupon the Debtor took out a Dagger which he had in his Pocket, and stabb'd him: Adjudg'd only Manslaughter, on a Special Verdict, for the Debtor was insulted and imprison'd injuriously, without any Process at Law. *Style 467.*

*Arrests,  
Riots,  
&c.*

And if a Man perceives another to be injuriously treated by Force, or restrain'd of his Liberty, and comes in to his Rescue, and kills any of those that shall restrain him, this is only Manslaughter, *18 Car. 2. Hugget's Case.*

But when a Man kills an Officer that has Authority to arrest his Person; he who kills him in Defence of himself, from the Arrest, is guilty of Murder; because there is a Malice implied. *Kel. Rep. 130.*

And if a Process be erroneous, or the Arrest be in the Night, or the Officer not telling the Cause of the Arrest, or shewing his Warrant, it is Murder: And a Man arrested endeavouring a Rescue, if one of his Party kill the Bailiff, it is Murder in



the Party arrested: But where a Warrant, by which a Bailiff acts, gives him no Authority to arrest the Person, as if he arrests J. S. Bart. by Force of a Warrant to arrest J. S. Knt. or where he executes Warrants in an unlawful manner, as breaking open Doors, &c. In these Cases the Killing of the Officer is only Manslaughter. 9 Co. 68, 69. Cro. Jac. 280, 486. Kel. 87. Cro. Car. 373. H. P. C. 46.

A Person was arrested, and another not knowing the Cause of the Struggle, but seeing Swords drawn, and to prevent Mischief, came and defended the Party arrested, and in the Scuffle the Bailiff was kill'd, adjudg'd no Murder in him; but all that were present, knowing of the Arrest, were principal Murderers. Sir Charles Stanley's Case, but Sir Charles was pardon'd. Kel. 86.

A. and others impress'd B. to serve in the Wars at Sea, who quietly submitted, and went off with the Press-Masters; but several other Persons persecuted them, and required a Sight of their Warrant, and they shewing only a piece of Paper, that was not a sufficient Warrant, the others drew their Swords, and the Press-Masters drew theirs, and in the Scuffle one of the Press-Masters was kill'd; this was but Manslaughter; for when the Liberty of one Man is invaded, it affects all the rest. Kel. Rep. 137.

Where an Affray suddenly falls out, and one Man kills another, it is only Manslaughter; but in such an Affray the Constable comes to keep the Peace, and some Person knowing him to be the Constable, shall kill him, it is Murder in him, and all that assisted in the doing it; but in others that continue the Affray, and know not that the Constable was come to keep the Peace, it is otherwise. And if the Constable gives Notice of his coming

and for what Purpose, as he ought, and any shall resist and kill him, it is Murder; and if no Notice be given, it is Manslaughter. *Kel. 115.*

But if the Riot or Affray had been deliberate, and they design'd doing an unlawful Act, in which they are oppos'd by the Constable, or any other Person, and one kills the Person opposing, it is Murder in all. *Moor 87. Dyer 138.*

And the Design of doing any unlawful Act makes it deliberate; and if the Fact be deliberate, tho' no Hurt to any Person be foreseen, yet if the Intent be felonious, and a Man is kill'd in Pursuit of it, it is Murder in the Person, and all his Accompllices: As for Example, Several Persons design to commit a Burglary, and some of them are set to guard the Avenues to the House, whilst the others commit the Burglary; and there happens to come by a Person in the mean time, who is kill'd by the Watch: Those that are sent to rob the House will be guilty of the Murder, though they commit not the Burglary. *Kel. Rep. 117.*

In a Riot at *May-Fair* a Constable was kill'd, and it being not known by whom, A. was indicted for it, and acquitted, B. C. and D. were likewise indicted as Persons present, assisting, abetting, &c. It was prov'd that D. first drew his Sword, and with several others assaulted the Constable, and that the Riot continu'd for an Hour, or more: It was held in this Case that D. was Principal, for he began the Riot, which continuing 'till a Murder was committed, he was a Principal Murderer, though it could not be proved he did the Fact. And Rioting is made Felony by *Stat. 1. Geo.*

One *Barrow*, a Soldier, was indicted at the *Old Bailey* for killing a Watchman; the Evidence depos'd that the Prisoner being found in an Alley, with a Woman, suspected to be a lewd Person, the Watchman

man endeavour'd to convey them both to the Watch-house, and for his Safety therein took away the Prisoner's Sword, but going along the Prisoner wrested the Sword from him, and gave him a mortal Wound. The Prisoner pleaded that the Watchman gave him several Blows, that his Sword was broke before, &c. but the Jury brought him in guilty of Murder. *Anno 2. Annæ.*

If two Persons have a Design to rob a Hen-roost, and one of them shoots at the Hen for that Purpose, and kills a Man, it is Murder in both, because the Design was felonious. *Kel. 117.* And where a Person resolves to do an unlawful Act, as to rob an Orchard, and Death ensues, it is Murder. *1 Roll. 363.* And where-ever a Man intending to commit one Felony, happens to commit another, he is as much guilty, as if he had intended the Felony committed.

If divers Persons come to hunt in a Park, and the Keeper commands them to stand, and resists them; if one of the Company kills the Keeper, it is not only Murder in him, but in all the rest there present, that came upon that Design, for it was done in Pursuance of an unlawful Act. *Moor 86. 2 Roll. 120. Lord Dacre's Case*

But if on their coming into the Park, before they see the Keeper, an accidental Quarrel happens amongst them, and one kills the other, it will not be Murder, but Manslaughter in the Person doing the Act, and in the rest that were not concerned in that Quarrel, it will not be Felony. So if one kills his Companion upon a former Malice; the others will not be Criminals, and they cannot be Abettors because they are Strangers to the Design. *Kel. 114.*

The Killing must be in Pursuance of an unlawful Act, and not collateral to it. And if divers Men

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lie in Wait to beat a particular Person, and one of them, while they are in Prosecution of that unlawful Design, out of Malice he had to another of his Companions, kills him, the rest are not concerned in the Crime. *Kel. Rep. 113.*

A. and B. fighting together, out of Malice premeditated, C. runs in to part them, and is kill'd by A. this is Murder in A. but not in B. for though B. was engaged in an unlawful Act, as well as A. yet the killing of C. by A. was not in Pursuance of, but collateral to it. And what makes the Crime Murder in A. is his killing a Person, endeavouring to keep the Peace, and to prevent the killing of B. *Dyer 128.*

If twenty Persons come with an Intention of murdering a Man, tho' but one of them perpetrates the Act, yet they are all guilty of the Murder. *Term. Mich. 11. H. 4.* All as are present aiding and abetting are Principal Murderers, as well as they that gave the Stroke. *Lamb. 243. Salisbury's Case.* But if one happen to be present when another is slain, or when a Felony is committed, and came not in Company of the Felons, nor was of their Confederacy, he shall be neither Principal nor Accessary, although he do not resist or disturb the Felon, but he is fineable. *Staundf. 41.*

Several Persons were indicted for Conspiring to enter the King's Park, and Hunting, Killing, and Carrying away Deer, with Design of killing any one that should oppose them, they having made an Assault upon two of the Keeper's Servants, and kill'd one of them: It was made appear that the Keeper's Servants began the Assault, and required them first to stand; that they discharged a Piece at them in their Flight, which continued 'till the Keeper's Man laid violent Hands upon the Offenders, and

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then,



then, and not before, they kill'd one of the Keeper's Servants; this was adjudg'd Murder; as they were doing an unlawful Act, the Law implies a Malice, *Roll. Rep. 120. Wormal's Case*, and others.

Several Owlers had loaded Wool for Transportation, and the King's Officers having Notice, oppos'd them in the Night, in order to seize the Wool; one of the Owlers shot off a Fuzee, and kill'd one of his own Company; this was held by all the Judges to be no Murder, because it did not appear that he discharged the Gun against the King's Officers, though it might be reasonably suppos'd he intended it, because he was armed, and in Prosecution of an unlawful Act. And though the Person that shot off the Fuzee, did it maliciously, and so it were found, whereby it would be Murder in him, yet the others not knowing his Design, cannot be adjudg'd to be Abettors. *Kel. Rep. 110.*

But if he was upon an unlawful Design, and in Pursuance thereof he actually discharged the Fuzee against any of the King's Officers that came to resist him, in the Prosecution of that Design, and by Accident had kill'd one of his Accomplices, it would have been Murder in him.

As if a Man out of Malice to A. shoots at him to kill him, but misses him and kills B. it is the same Murder as if he had kill'd A. the Person intended; but if there be no Malice, it is only Manslaughter. *Dyer 128. Plowden's Com. 474. Saunders's Case.*

A *Welchman* upon *St. David's Day* having a Leek in his Hat, a Person standing near him pointed to a *Jack of-Lent* that hung up hard by, and said to him, *Look upon your Countryman*; at which the *Welchman* in a Rage took up a Hammer that lay upon a Stall, and flung at him, which miss'd him, but hit another, and kill'd him: Resolv'd that he

was

was guilty of Manslaughter, at Common Law, and not upon the Statute of Stabbing, on which he was indicted; and if the *Welchman* had been indicted of Murder, it was the Opinion of the Court that he should have been convicted thereof. *Jones 432. Williams's Case. Kel. Rep 132.*

Persons are to be cautious in taking part with, and attending others; if a Master maliciously intending to kill another, take a Servant with him, without acquainting him with his Design, and meet his Adversary, and fight with him, and the Servant seeing his Master engaged, takes part with him, and kills the other, the Servant is guilty of Manslaughter, and the Master of Murder. *Crom. 23. Dalt. c. 93.* And if the Master be kill'd, the Servant is guilty of Manslaughter. *Sid. 254.*

But if the Person kill'd were a Bailiff or other Officer of Justice resisted by the Master, in the Execution of his Office, such Servant shall be guilty of Murder; for all fighting is highly unlawful: And if a Man seeing Persons engaged, takes part with one side, and fights in the Quarrel, without knowing the Cause of it, it shews a high Contempt of the Laws, and a Readiness to break through them on every small Occasion; and when he rashly engages in a Fight begun in open Opposition to the Justice of the Nation, and a Person happens to be kill'd in Maintenance thereof, 'tis highly just that he should be made an Example of, to deter others from joining in such unwarrantable Quarrels. *Plow. Com. 100. 1 Sid. 160. Noy 50.*

Besides, I take it that by a Man's espousing the Cause of either side in a Quarrel, he in a great measure makes the Quarrel his own, and consequently where any Person happens to be kill'd, it is criminal in him in a high Degree.

If there be a Conspiracy to kill a Man, but no Malice against his Servant; if the Servant be slain, the Malice against the Master shall be constru'd to extend to him, and the killing him is Murder.  
*1 Mar. Lord Salisbury's Case.*

*Commanding to kill.*

If a Man command his Servant to beat another, which he doth in his Presence, and the Person die thereof, it is Murder. *Plow. Com. 475.*

For the Reasons above, Servants are not to obey the Commands of their Masters in unjustifiable Actions; and if A. command B. to kill C. and B. by mistake killeth D. this is Murder in B. and the Law shall couple the Event to the Cause, but A. is not Accessary to the Murder, by reason he did not command the Death of D. But where Death ensueth upon that Act which is commanded, though Death be not mention'd, there he is Accessary to it; for the Commandment is the Cause of Death.  
*3 Inst. 51.*

As if A. command B. to beat C. and he in pursuit of this Command beats C. so violently that he dies of the Wounds, A. is Accessary to the Murder.

When a Commandment extends expressly to the killing of another, and for the better Accomplishment thereof, the particular Manner of doing it is prescrib'd, (*viz.*) To kill him by Poison, or any other means, and the Person is kill'd with a Gun, or a Time and Place be appointed to kill a Man, but he is kill'd at another time, &c. the Person commanding is Accessary; for the Commandment was to kill, which ensued, though the Method of doing it was not followed. *3 Inst. 51. Lamb. 287.*

But if A. command B. to kill C. and before the Act be done, A. repents him of his malicious Design, and countermands what he had before commanded, and charge B. not to do it; if afterwards B. killeth



B. killeth him, A. is not accessory to the Murder; for his malicious Mind ought to continue until the Act be perpetrated. *Plow. Com.* 474, 475.

As the compassing the Death of a Man is a great Crime, and in case of the King is High Treason, so it is highly criminal to intend the Murder of any Person. One *Bacon* was indicted for intending the Murder of the Master of the *Rolls*, and for offering a Reward to another Person to do it; saying, at the same time, that if he would not put his Designs in Execution, he would do it himself; upon Conviction it was mov'd that this being an Intention only, was not indictable. But the Court declar'd that it was a heinous Offence, and fineable; whereupon he was fin'd one thousand Marks, committed to Prison for three Months, and order'd to find Sureties for his Good Behaviour during Life. *1. Lev. Rep.* 1. p. 146.

*Intentions  
of Killing.*

In some of our antient Law-Books there are several Instances of severe Punishments of Intentions of Murder: An Apprentice endeavouring to steal the Goods of his Master, to facilitate the same, came to his Master's Bed, where he lay a-sleep, and with a Knife attempted with all his Force to have cut his Throat; and thinking that he had done it, he fled; whereupon the Master cried out, and his Neighbours apprehended the Youth; and all this being found by Special Verdict, he was adjudg'd to be hang'd. *3 Inst.* 5. For, *voluntas reputabatur pro facto*; so as it was not a bare compassing of the Death of a Man but such an Overt Act to manifest the same: But if a Man had compass'd the Death of another, and had utter'd the same by Words or Writing only, without an Overt Act, he should not have died for it; as appears above in the Case of *Bacon*.

A Man's

A Man's Wife went away with an Adulterer, and they compass'd the Death of the Husband, and as he was riding towards the Sessions-House, they assaulted him with Weapons, and wounded him so that he fell down as dead, upon which the Wife and her Accomplice run away; but the Husband recover'd and made a Hue and Cry, whereupon they were apprehended, and upon shewing the whole Matter to the Justices in the Sessions, they were indicted and arraign'd, and this Special Matter being found by Verdict, the Man was adjudg'd to be hang'd, and the Woman to be burnt.

3 *Inst.* 5.

And Attempting to kill or assault, strike or wound a Privy Counsellor in the Execution of his Office, is made Felony, without Benefit of Clergy. *Stat.*

9 *Annæ.*

There are Intentions of another Nature, and in another Degree; as if any Person shall ride into a Fair with an unruly Horse, knowing him to be so, and on purpose to do Mischief, and Death ensues, this is Murder; but if there was no Intention of doing Harm, then 'tis Manslaughter. *Moor* 754. And throwing a Stone over an House or Wall among a Multitude of People, knowing they were there assembled, or at another, and Death ensues, implies a Malice, and plainly shews an evil Intention of doing Mischief. *H. P. C.* 45.

During the Wars with *France*, a Person made a Seizure of *French* Goods at Sea, and brought them Home, and another Person pretending to be Deputy Admiral, came with Force to the House where the Goods were secur'd, and assaulted those who kept Possession of the Goods; a Gentlewoman came to the Door without any Weapon, and was kill'd with a Stone thrown by a Servant of the Person making the Assault; and it was held that this was Murder.

Murder in the Master, and all his Company.

Door 87. Herbert's Case.

But if a Man throws a Stone at a Person which lanceth and killeth another, this shall be only Man-  
slaughter, there being no malicious Intent to hurt ;  
and it shall be criminal beyond *per infortunium*, be-  
cause it was doing an unlawful Act. H. P. C. 58.

Some Workmen building a House near the Horse-  
erry, a Master Workman sent his Servant in the  
Evening when the Labourers were putting up their  
poles, to bring from the House a Piece of Timber  
which lay two Stories high ; the Servant according-  
ly went up for that Piece of Timber, and before he  
threw it down, he cried out aloud, *Stand clear*,  
and was heard by the Labourers, but the Piece of  
Timber fell upon one of them, and kill'd him : My  
Lord Chief Justice *Hide* held this to be Manslaugh-  
ter, for he said he should have let it down with a  
Rope, or else at his Peril be sure no Body is there.  
*Kel. Rep.* 40.

But *Kelynge* and *Wylde*, were of Opinion it was on-  
ly Misadventure, he doing what was usual with  
Workmen ; and before he did it, crying out aloud,  
*Stand clear*, which was sufficient Notice for Persons  
near to avoid it : As in case of Lopping a Tree,  
where a Man bids them below *take heed*, when the  
Arms of the Tree are ready to fall.

If one be cleansing a Gutter in the Streets of  
*London*, and he calls out, *Stand aside*, and then  
throws down his Rubbish, or a Piece of Timber,  
by which a Man is kill'd, this is Manslaughter,  
being in *London*, where there is a continual Con-  
course of People, for among the vast Numbers  
which pass the Streets, a Person may not hear him  
call out ; and it is like the case where a Man shoots  
an Arrow or Gun, into a place full of People, if  
any be kill'd, it is Manslaughter ; for in common  
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Presumption, his Intention was to do Mischief; but in cleansing of Gutters in a Country Town, where there is no such Frequency of Passengers, it is otherwise. *Kel. 41.*

Not pre-  
venting  
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Besides, These Intentions of Mischief, not preventing Mischief is punishable; as where Persons are fighting, and the Lookers on do not endeavour to part them; and if a Man have an Ox or an Horse which he knows to be mischievous, by being us'd to strike, or push People, &c. and he do not tie him up, whereby a Person is kill'd; the Owner may be indicted for feloniously killing him, by the *Mosaic* Law. And by all it is agreed, That such a Man is guilty of a very great Misdemeanour. *Fitz. Corone 311. Dalt. c. 93. Staundf. 17.* Stirring up a Dog or other Beast to bite a Person, knowing the Dog is accusom'd to it, if Death ensues, it is a Killing.

And doing a thing which endangers another's Life, and Death ensues, it shall be adjudg'd to kill him. For Example, If a Person should carry his sick Father against his Will, from one Town to another in a cold frosty Morning, by reason whereof he dies, this has been adjudg'd Murder. *Crom. 24. b. Pult. 122.*

And if a Man by Duress and Imprisonment compels a Man to accuse an innocent Person, who on his Evidence is condemned and executed; or where one incites a Madman to kill himself, or another; in these Cases a Man shall be said to kill one, though he be actually killed by another Person. *3 Inst. 91. S. P. C. 36. c.*

If a Prisoner by the Duress of the Gaoler receives any Injury, which occasions his Death, it is Murder in the Gaoler; and the Law implies Malice in respect of the Cruelty. For this Reason, if a Man die in Prison, the Coroner ought to sit upon his

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Body, to enquire whether he received his Death by the Durefs of the Gaoler or not. *Brit. c. 11.*

If a Sheriff or other Officer, where he ought to hang an Offender, will against the Law behead him, or otherwise put him to Death, the Law implies Malice; neither can the King alter the Execution contrary to the Direction of the Law. *Bract. lib. 3. fol. 104.*

The Execution must be pursuant to the Judgment; and if the Judge who passes Sentence of Death, or any Private Person execute the same, or if the proper Officer do it without a lawful Warrant, they are guilty of Felony. *Bro. Appeal 69.*

If Persons usurp an illegal Authority, and put others to Death, it is Murder; as if Persons by Vertue of a new Commission wholly unknown to our Laws, or by Vertue of any known Jurisdiction, which clearly extends not to Cases of this Nature, cause a Man to be executed: For Example, If the Court of Common Pleas should execute a Man for Treason, or Felony; or the Court Martial, in time of Peace, put a Man to Death by the Martial Law, both the Judges and Officers are guilty of Murder. *H. P. C. 46.*

But where there is any Defect in a Commission, they are no ways criminal, if the Commission would have given them full Authority, in case it had been strictly regular.

It has been held by some of our Law-Books, that if a Person not duly authoriz'd to be a Physician or Surgeon, undertake the Cure of a Person, and the Person die under his Hand, he is guilty of Felony; but is not excluded the Benefit of Clergy; and it is highly rash and presumptuous, for unskilful Persons to undertake Matters of this Nature; neither can the Laws well be too severe in these Cases.

Cases, in order to deter ignorant Pretenders from endeavouring to attempt a Practice, which cannot be follow'd without the manifest Hazard of the Lives of those who have to do with them. *Pult. 22. Crom. 27. Fitz. Coron. 163.*

*Poisoning  
Persons.*

I come now to Murder by Poisoning, A Man being indispos'd, an Electuary was prepar'd by an Apothecary, from the Prescription of a Doctor, and being thus prepar'd was sent to the sick Man's House. His Wife with intent to poison him, mix'd Ratsbane with the Preparation: The Husband took Part of it, and a very great Disorder ensued, but he recover'd by taking proper Medicines. The Doctor was complain'd to, who sending for the Apothecary, he to acquit himself from all Imputation, took of the Electuary himself and died; this was adjudg'd Murder; for there was a murderous Intention originally, which in the Event proves the Cause of the King's losing a Subject. 9 Ca. 81. *Agnes Gore's Case.*

A married Woman elop'd from her Husband having two Daughters by him, and liv'd with another Man, and afterwards one of her Daughters made her a Visit, at which she made Enquiry after the Health of her Husband, and she was answer'd by her Daughter that he had a Cold; the Mother upon this Answer gave her a Paper, telling her, there was some good Powder for him, to be taken in his Posset; the Daughter carried home the Powder, and acquainting her Sister with it, she in her Absence gave the Powder to her Father, in his Posset, which being compos'd of Poison, immediately killed him. Resolved that the Wife was Principal in the Murther, and also the Man with whom she run away, he being prov'd to be advising in the Poison; but that the two Daughters were in no Fault, they being both ignorant of the Poison. *Kel. Rep. 53.*

A Man



A Man gave a poison'd Apple to his Wife who eat a Part of it, but not enough to kill her, and she innocently and against her Husband's Will and Perswasion, gave some of the Apple to the Child, who died thereof; adjudg'd Murder. *Pl. Crom. 474.*

A Husband and Wife having liv'd many Years together in Poverty and Want, the Man at last told his Wife, he was weary of living, and he resolv'd to kill himself; the Woman replied that she would die with him; thereupon he desired her to buy some Ratsbane, and they would put it in Ale and drink it together; she accordingly bought it, and put it into the Cup, and they both drank of it. The Man died; but the Wife taking Sallad Oil expelled the Poison. The Question Was, whether this was Murder in the Wife? But it was not resolv'd. *Moor. 754.*

If a Man puts Poison into Wine, or any Thing else, with an Intention of poisoning another Person, and sets it in a Place where he may probably come and drink it; and by Accident he comes and drinks it, and dies, this has been adjudg'd Murder, (tho' there was no Malice) for the Law couples the Event with the Intention, and the End with the Cause. But preparing Ratsbane, and leaving it in proper Places to kill Rats and Mice, or other Vermin, and with no other Intent, is only Homicide *per Infortunium* if the Person eat thereof and die, because the Intentions in this Case were wholly innocent. *Term. Mich. 9 Jac. 1 Pl. Crom. 474.*

If one drinks Poison by the Provocation or Perswasion of another, and dieth of it, this is Murder in the Person that perswaded the taking of it: And if A. give Poison to B. to give to C. and B. knowing it to be Poison give it to C. accordingly, who taketh it in the Absence of B. and dies of it,

In

In this Case B. who gave it to C. is Principal; and A. who gave the Poison to B. is but Accessary before the Fact: But if A. buyeth Poison for B. and B. in the Absence of A. takes it, and dies of it. In this Case A. tho' he be absent, yet he is Principal. *Kel. Rep. 52.*

So it is if A. give Poison to B. to give unto C. and B. not knowing it to be Poison, but believing it to be a good Medicine, giveth it to C. who dieth of it; in this Case A. who is absent is Principal; otherwise a Man might be murdered, and there would be no Principal: And B. who knew nothing of the Poison is no way criminal. So if A. puts a Sword into the Hand of a Madman and bids him kill B. with it, and then A. goes away, and the Madman kills B. with the Sword, A. is a Principal Murderer. tho' absent, and it is no Crime in the Madman that did the Fact, by Reason he was *Non Compos.* *Kel. 53.*

Poisoning a Man was Murder by the Common Law: And the Statute 1 *Ed. 6.* is but declaratory of the Common Law, and an Affirmation of it. And the poisoning of any Man, whereof he dieth within the Year, implies Malice, and is adjudg'd wilful Murder of Malice prepensed. *3 Inst. 52.*

A Man may be poisoned four different Ways, by Tasting, Eating, or Drinking; by taking in of Breath; (as by a poisonous Perfume in a Chamber) by Touching; and by a Clyster, or the like. *Richard Watson* being Keeper in the Tower of London to Sir *Tho. Overbury*, poisoned the said Sir *Thomas* by giving him a Clyster. R. Earl of S. and *Frances* his Wife, one *Franklin* and others, were Accessaries before the Fact, in the County of *Middlesex*, and Sir *Gervas Helwys* Lieutenant of the Tower was Accessary before the Fact in London. *Mich. 13. Jac.*

Divers Questions arose and were resolv'd upon the Statute of 2 E. 6. c. 24. Relating to the Trials of the Accessaries, upon account of some being in London, and others in the County of *Middlesex*; and Precedents were produc'd that where Accessaries before the Fact were in *Middlesex*, and the Attainder of the Principal had been in another County, the Justices of B. R. have remov'd the Attainder by Writ of *Certiorari* before them: Lord *Sanchar's* Case. So that *Weston* being attainted as Principal in the City of *London*, Proceeding was to be had against *Franklin* and the rest in the King's Bench where they were indicted.

At length the Question was, if the King's-Bench should remove the Record of the Attainder of the Principal by *Certiorari* before them, and after the said Earl of S. and his Wife should be tried by their Peers before the Lord High Steward, whether the Lord Steward might write to the King's Bench for the Record of the Attainder. And to prevent all Doubts a special Writ was directed to the Commissioners of Oyer and Terminer, to certify the Conviction of the Principal; and they made a particular Certificate accordingly: So as the Record of the Attainder remain'd still with the Commissioners of Oyer and Terminer in *London*. And it was resolv'd upon considering the whole Act. 2 E. 6. that the Words of the same shall extend to the High Steward to write, &c. as well as to the Commissioners of Oyer and Terminer to proceed.

These Resolutions being over, *Weston* was tried. The Indictment against him was, That he 9 Die Maii Anno 11. Regis Jacobi, &c. gave to Sir *Tho. Overbury* a Poison call'd *Roseacre* in Broth, which Sir *Thomas* not knowing it, receiv'd: Et ut idem Ric. *Weston* præfatum *Thomam Overbury* magis celeri-



ter interficeret & murdraret. That 1 Junii Anno 11 Jac. Regis, he gave him another Poison call'd White Arsenick. And that 10 Julii Anno 11 Jac. Regis he gave unto him Poison called Mercury sublimat. in Tarts &c. ut præd. Thomam magis celeriter interficeret & murdraret. And that a Person unknown, by the Procurement and in the Presence of Richard Weston, 14 Septemb. Anno 11 supradicto, gave to the said Sir Thomas a Clyster with Poison in it, call'd Mercury Sublimat. &c. ut præd. Thomam magis celeriter interficeret & murdraret. Et prædict. Thomas Overbury de separalibus venenis præd. & operatione inde à prædict. separalibus temporibus, &c. graviter languebat usque 15 Diem Septemb. Anno 11. supradicto, quo quidem 15 Die Septembris, &c. prædictus Thomas de separalibus venenis prædictis obiit venenatus. And upon this Indictment he was arraigned, and had Judgment given against him.

Afterwards Sir Gervas Helwys, Franklin the Physician, and others, were indicted and arraigned, and pleaded Not guilty; and it appeared by Evidence that Franklin had prepared divers other Poisons than were mentioned in the Indictment, as the Powder of Diamonds, the Powder of Spiders, Lapis Causticus, and Cantharides. And it was resolved that any of these was sufficient to prove the Indictment.

After Verdict, and Judgment given against Sir Gervas Helwys, and Franklin, the Earl of S. and the Countess his Wife, were indicted as Accessaries before the Fact, and arraigned before the Lord High Steward of England; and upon the Arraignment of the Countess she confess'd the Indictment; and when the Clerk of the Crown ask'd her what she could say why Judgment of Death should not be given against her

The answer'd that she could say a great deal against her self, but nothing in her own Favour; whereupon the Lord Steward pronounc'd Sentence against her, and adjourn'd the Commission until the next Day.

The next Day the Earl upon his Arraignment pleaded Not Guilty, and put himself upon his Peers, who found him guilty; and thereupon the Lord Steward gave Judgment against him.

*Inst. 50.*

There being a great deal of Variety in these Proceedings, I thought it necessary to insert them at large for the Satisfaction of the Curious, and what induc'd me the more to it, is, that my Lord Coke tells us he did not remember that any of the Nobility had been attainted for poisoning of any person before this Attainder of the Earl of S. and for that this was the first Case that fell out upon the Act. 2 E. 6. relating to Trial by Peers of any that were Noble.

Poison was an Offence so odious in the Eye of the Law in former Times, that the Statute 2 H. 8. made it High Treason, and inflicted a more lingering Death than the Common Law prescrib'd, viz. That the Offender should be boil'd to Death, and in Pursuance of this Act a young Woman suffered Death by Boiling for poisoning her Mistress; but this Act was thought too severe, wherefore it was repeal'd by 1 Ed. 6. 3. *Inst. 38.*

If Husband and Wife join in Case of any Murder, they are both equally guilty; which was the Case of the Earl of S. and his Lady above mention'd, in the poisoning of Sir Tho. Overbury; but if a Man and his Wife go together to commit a Burglary, and both of them break a House in the Night, and enter and steal Goods; it is no Felony

in the Wife; for the Wife being together with the Husband in the Act, the Law supposeth the Wife doeth it by Coercion of the Husband; and so it is in all Larcenies. *Kel. Rep. 31,*

*Killing of  
Children,  
Servants,  
&c.*

If a Woman being big with Child shall take Poison or any other Potion to destroy the Infant within her; or if a Man beat her so violently that by the Battery the Child dies in her Body, and she is delivered of a dead Child, this is a great Misprision but no Murder; for it is hard to judge whether he kill'd the Infant, or it died of some other Cause: But if the Child be born alive, and afterwards dies of the Potion or Battery; this is Murder; for in Law it is accounted a reasonable Creature *in rerum Natura*, when it is born alive. *Staunfd. 20, 21.*

And if a Man advises a Woman to kill the Child in her Womb, when it shall be born, and after she is deliver'd of the Child, she kills it; the Adviser is Accessary to the Murder, and yet at the time of the Counsel given no Murder could be committed of the Child *in utero matris.* *3 Inst. 51.*

Where a Bastard Child shall be conceal'd, it shall be taken to be born alive, and if it be dead, it shall be taken that it was murder'd. A Woman liv'd in a Chamber by her self, and went to Bed well without any Pain; in the middle of the Night she waked full of Pain, and knocked for some Body to come to her Assistance, and one Woman heard her knock, but came not to her, and the same Night she was deliver'd of a Child, and afterwards she put the Child in a Trunk, and did not discover it 'till the Night of the following Day, and all this was found specially, but there was no Sign of any Hurt upon the Body of the Child. It was agreed by all the Judges that there be an Intent in the Woman to conceal the

Child



Child, then it is Murder, tho' the Child was dead born: But if there was no Intent in the Woman to conceal it, or if she confess her self with Child beforehand, and after she is surpris'd and delivered, no Body being with her, this was not within the Statute; because by her knocking there appeared to be no Intent to conceal it, and there being no Sign of Hurt upon the Child, it is no Murder. *Kel. 32.*

A Woman was Indicted for murdering her Child, and it appeared on Evidence, that she kick'd the Child, and stamp'd upon its Belly; adjudg'd Murder. *Kel. 64.*

A Harlot being deliver'd of a Child, left it in an Orchard cover'd only with Leaves, and a Kite struck it, whereof it died; adjudg'd a Killing. *Crom. 24.*

The Child of A. beats the Child of B. who runs home to his Father and tells him of it, and he runs after the other Child and beats him that he dies; only Manslaughter. *H. P. C. 48.*

A Father, Master, or Schoolmaster, may correct, a Child, Servant, or Scholar, but they must do it with such Things as are fit for Correction, and not with an Iron Bar, great Cudgel, &c. with which a Man may probably be slain.

A Blacksmith commanded his Servant to do a Piece of Work, which he neglecting, his Master ask'd him why he had not done it, and then told him that if he would not serve him, he should serve in *Bridewell*; to which his Servant answer'd, That he had as good serve in *Bridewell*, as serve him; whereupon the Master having a Bar of Iron in his Hand, without any other Provocation, with the Bar gave him a Blow on the Skull, of which he died. This was found specially, and adjudg'd Murder. *Kel. Rep. 64.*

A Man chided his Servant; but upon some cross answer given, he having a hot Iron in his Hand, run it into the Servant's Belly, of which he died; adjudg'd Murder; and the Party was executed. *Kel. 64.*

Upon Words between Husband and Wife, he suddenly struck her with a Pestle, and kill'd her; adjudg'd Murder; for though a Husband by Law may correct, the Pestle was no Instrument for Correction; no more than a Bar of Iron, in the Case of the Smith's Servant. *Dalt. 278.*

A Man was indicted for the Murder of his Wife upon the Evidence it appear'd that he being a Hackney-Coachman, found a Pistol in the Street, and when he came Home, he shew'd it to his Master and they took the Gunstick and put it into the Pistol, and it went down into the Muzzle, by which they thought it was not charged, and his Wife standing before him, he pulled up the Cock and the Pistol went off, and being charg'd with a Brace of Bullets, wounded her in the Belly, and killed her; upon which he cried out, *Oh, I have killed my Dear Wife!* and called in Neighbours; it was adjudged Manlaughter. *Kel. 41.*

At the Sessions in the *Old Baily*, one *Tomson* was indicted for murdering one *Dawes*; the Jury found by Special Verdict, that *Tomson* and his Wife were fighting in the House of the said *Dawes*, and *Dawes* seeing them fighting, came and endeavour'd to part them, and thereupon *Tomson* thrusting away *Dawes* threw him down upon a Bar of Iron, in the Chimney, and by that one of the Ribs of the said *Dawes* was broken, of which he died; adjudged only Manlaughter; for though the Jury found that *Dawes* came to part Man and Wife, yet it did not appear that *Tomson* knew his Intent, nor that *Dawes* spoke any Words, whereby he might understand his Intention. *Kel. 66.*

If a Man be in Company, in a Room, in a Tavern, and another Person bringing with him Women of ill Fame, demands the use of the Room, and would turn out the Person having first Possession; but he refusing to be turned out by Force, draws his Sword, and in fighting kills one of the other Company, it has been adjudged justifiable. *Kel. 51. Ford's Case.*

But if two Persons fight in any place, through any opprobrious Language given by Women; and the one killeth the other, without any other Provocation, this is Manslaughter in both the Man and the Woman. *Fitz. Coron. 331.* And a Woman hath been arraigned of Murder, in such a Case.

If divers Persons having forcible Possession of a House, afterwards kill the Person whom they have ejected, as he is endeavouring to regain the Possession, and also to fire the House; they shall be guilty of Manslaughter only; because the Party slain is so much in Fault himself. *Crom. 28. b. H. P. C. 56.*

Though if in such, or any other Quarrel, a Justice of Peace, Constable, &c. or even a Private Person be killed in endeavouring to keep the Peace, he who kills him is guilty of Murder; for notwithstanding it was not his Intentions originally to commit a Felony, yet inasmuch as he persists in a less Offence, with so much Obstinacy, as to go on in it to the Hazard of the Lives of others who are doing their Duty in Maintenance of the Law, he may in this respect be judged equally criminal, as if he had come with a Design of committing Felony. *Dalt. c. 93. 3 Inst. 52. 9 Co. 68.*

A Man in the Night-time attempted to break open the Door of a Dwelling House, and one who was only a Lodger would have dissuaded him from it, but he not regarding the Advice, broke the Window, and thrust his Rapier at the Lodger, who with a



Spit wounded the Rogue in the Eye, of which Wound he died; this was held not to be Felony, though done by a Lodger, and not by the Master of the House, in the Defence of his Possession. *Cro. Car.* 544.

*Petit  
Treason in  
Servants,  
&c.*

I am here methodically led to the Crime of Petit Treason. A Maid Servant and a Stranger conspired to rob the Mistress, and in the Night the Servant open'd the Door and let in the Stranger into the House, and lighted him to her Mistress's Bed, where he kill'd her, the Servant neither saying or doing any thing, only holding the Candle; this was held Murder in the Stranger, and Petit Treason in the Servant. *Moor* 91. *Dyer* 128.

And by Statute 25 *Ed.* 3. the following Crimes are declared Petit Treason, (*viz.*) where a Servant kills his Master, a Wife kills her Husband; and an Ecclesiastical Person, Secular or Religious, kills his Prelate, to whom he owes Obedience. And an Attempt by a Wife to kill her Husband, &c. was Petit Treason before this Statute; as was likewise Parricide by the Common Law.

But this Statute is so strictly constru'd that no other Case whatsoever, which cannot be brought within the meaning of the Words of it, shall be punishable by it. And therefore, If a Son murder his Father, he shall not be tried for Petit Treason, unless he be in Construction a Servant, by serving the Father for Meat, Drink, Clothes, or Wages; and yet the Offence is far more heinous and impious in a Child than a Servant. 3 *Inst.* 20. *H. P. C.* 24.

The Murder of a Mistress, or of a Master's Wife, is Petit Treason, within the Statute, though not mention'd; for notwithstanding she cannot come under the word Master, yet she is within the meaning thereof, being a Person to whom a Servant has Relation, and he owes Obedience to both Master and

and Mistress. *Plow. Com.* 86. 3 *Inst.* 20. A Girl of thirteen Years of Age was burnt for killing of her Mistress. *Term. Trin.* 12. *Ed.* 3.

A Servant of Malice intended to kill his Master, and lay in Wait to do it, while he was his Servant, but having no Opportunity, he could not effect it till a Year after he had quitted the Service; adjudged Petit Treason, within the Act; inasmuch as it is but the Execution of the treasonable Intentions of the Party, while he was a Servant. 3 *Inst.* 20. *Plow. Com.* 260. *Bro. Coron.* 116.

And the Procuring, Aiding or Abetting of any of these Offences, is within the meaning of this Act.

If a Wife or Servant procure a Stranger to kill the Husband or Master, in the Absence of such Wife or Servant, neither the Procurer nor Actor are guilty of Petit Treason, but of Murder only; for the Offence of an Accessary can never be of a higher Nature than that of the Principal, which is only Murder in such Wife or Servant being absent; but if the Wife or Servant be either actual-ly present when the Crime is committed, or present only in the Judgment of Law, as being in the same House, but not in the same Room; (which by stirring up the Murderer, makes them equally guilty, as if they had stood with their Swords drawn ready to second the Attempt) such Wife or Servant, being Principals as much as the Stranger, are guilty of Petit Treason, and the Stranger of Murder. *Dyer* 128. *Moor* 91. *Bro. Coron.* 119.

If a Wife and her Servant conspire to kill the Husband, and appoint Time and Place for that purpose, but the Servant alone in the Absence of the Wife, killeth him, this shall be Petit Treason in both; and if a Stranger procures a Wife or Servant to kill the Husband, or Master, he may be indicted

indicted as Accessary to Petit Treason. *Dyer* 128

332

Persons accused of Petit Treason shall be construed to be either not guilty, or Principal or Accessary, according to the Rules of Law in other Cases; so that if the Fact appear to have been done upon a sudden Falling out, or in the Party's necessary Self-defence, &c. it cannot be Petit Treason; for as all Petit Treason implies Murder and is the highest Degree thereof, where-ever the Circumstances do not make the Offence Murder by Law, they cannot make it Petit Treason; but generally where the Circumstances are such as will make the killing of a Stranger, by a Stranger Murder; they make the killing of a Husband or Master, &c. Petit Treason. *H. P. C.* 24. *Dalb.* c. 91. *Crom.* 19, 20. *Dyer* 224.

When a Man is taken in Adultery with another Man's Wife, if the Husband shall stab, or otherwise kill the Adulterer, this is bare Manslaughter for besides the Provocation, which is very great, it is the highest Invasion of Property, and it has been adjudged a greater Breach of the Peace than entering a Man's House and robbing him. *1 Ven.* 158. *Raymond* 213.

*Man-  
slaughter,  
Stabbing,  
&c.*

Besides the several Cases of Manslaughter already illustrated, and interpersed with Crimes of a higher Nature, there is a particular Manslaughter, from which the Benefit of Clergy is taken away by Statute, and this relates to Stabbing. *Stat.* *Fac.* 1.

This Statute enacts, That if a Man shall stab or thrust any Person or Persons that hath not then any Weapon drawn, or that hath not first stricken the Party which shall so stab or thrust, if the Person or Persons stabb'd, shall die thereof within the space of six Months, then next following although



Although it cannot be proved that the same was done of Malice fore-thought, is Murder without Clergy, for Malice is implied. 1 Jac. 1. c. 8.

But there is a Proviso in the Act, That it shall not extend to any who kills another, *se defendendo*, or by Misfortune; nor to one who in keeping the Peace, or chastising his Servant or Child, shall unwillingly commit Manslaughter.

If a Person be struck by another, and afterwards he gives the Person who struck him a Mortal Wound, he is out of the Statute. 1 Jon. 240.

The Persons who actually give the Stroke, and not those present, or aiding and abetting, (who may be said to do it by Construction of Law,) are within the Statute; so that if there cannot be sufficient proof made by whom the Stroke was given, none can be found guilty by this Act. Aleyn 44.

The Statute makes no new Offence, but only takes away the Clergy from an old one, and leaves it to the Judgment of the Common Law; from whence it follows, That a Person indicted on the Statute may be found guilty of Manslaughter generally. H. P. C. 58.

The Killing of a Man with a Hammer, or such like Instrument, which cannot with any Propriety come under the Words, Thrust, or Stab, is not a Killing within the Statute; but the discharging of a Pistol, or throwing a Pot, or other dangerous Weapon at the Party, is within the Equity of the Words, having a Weapon drawn: And if a Person should have a Stick in his Hand, it shall be accounted a Weapon drawn. Godb. 154.

One Man struck another, who returned it, and then the Person who gave the first Stroke, stabb'd the other with a Knife, the Question was, Whether he should have his Clergy, because he was struck by the other before he stabb'd him? And adjudg'd he

he should not; because the Words first stricken in the Statute, shall be construed the very first Stroke given at the beginning of the Quarrel, and not any subsequent Stroke before the Stab. *Byard's Case Jon. 340.*

Where two Persons quarrel, and one throws a Po at the other, which missing him, the other draws his Sword and kills him, he shall not be excluded his Clergy. A Man was indicted in this Case, on the Statute of Stabbing, the Matter was found Special, and the Doubt did arise upon the Words of the Statute, (*viz.*) He that Stabs another, not having a Weapon then drawn, &c. Whether the Particle *then* should relate to the Beginning of the Quarrel, or to the other Stroke given? And by the better Opinion it was held to extend to the Beginning of the Quarrel; for if in Fighting one lets his Sword fall, or throws it at another, and is then killed, 'tis plain he had not then a Weapon, *viz.* at the time of the Wound given; but yet, because it was once drawn during the Quarrel, Clergy shall be allowed. *3 Lev. 255. 9 Rep. 66.*

Three Persons are present, when one of them kills a Man, the other two abetting him that did the Fact, but committing no Act, which contributed to the Death of the Party. All three were indicted upon the Statute against Stabbing. The two are but Accessories, and shall have their Clergy; but the other shall be hang'd. For the Statute *1 Jac. 1.* being a Penal Law shall be taken strictly, and not extended. *Hill. Term. 23 Car. 1.*

But at Common Law, and in other Cases, it is otherways. For if a Man be present, and moves his Companion to strike another, and kill him, he is Principal, though he did not strike one Stroke. *Plow. Com. fol. 100.*

If two Persons play together with Sword and Buckler, without the King's Leave, tho' by their own Consent and Agreement, and one kills the other; this has been adjudg'd Felony. *Kellewey's Rep. 136.*

Two Persons were playing at Foils, with Swords and Scabbards, and the Chape of the Scabbard falling off unknown to the Party, one of them thrusts the other in the Belly and kills him; adjudg'd Manslaughter: For these Actions not being warranted by Law, the Parties concern'd are at their Perils, to guard against the Consequence: And tho' there be no Intent of Mischief, the Thrust being voluntary, is an Assault in Law. *Aleyn's Rep. 12. Sir John Chichester's Case.*

Several Persons were playing at Bowls, two of them fell out, and a Third, who had no Hand in the Quarrel, in Revenge of his Friend, gave the other a Stroke with his Bowl, of which he died: This is Manslaughter only, happening on a sudden. *Co. Rep. 12. p. 87.*

If a Man comes to rob a Man's Posterity and his Family, to kill him is Manslaughter. But if a Thief comes to rob him, it is lawful to kill him, and a Man in such Case shall be justified. *Kel. Rep. 137.*

As to justifiable Homicides; if a Man be assaulted on the Highway by a Robber, who endeavours to rob or murder him, a Man may justify the killing. And if a Servant coming suddenly and finding his Master robb'd and slain, falls upon the Murderer immediately and kills him, this is justifiable Homicide, for he does it in the Height of his Surprise, and under just Apprehensions of the like Attempt upon himself; in other Circumstances he could not have justified the killing, but ought

*Justifiable  
Homicide.*



ought to apprehend the Offender, &c. Stat. 24 H. 8. c. 5. Dalt. c. 98. Bro. Coron. 100, 102.

But if the Person making such Assault on another to rob him, finding Resistance, killeth him, this is Murder by Malice implied, altho' the Robber never saw or knew him before. 3 Inst. 52.

If a Person attempt to commit Murder, Robbery, or any other Felony, a Man or any of his Servants, &c. may lawfully kill him; and a Woman may justify the killing a Man who attempts to ravish her. Cro. Car. 544. Bro. Cor. 100.

If a Man without any Provocation is assaulted by another in any Place whatsoever, in such a Manner as plainly shews an Intent to murder him, as by discharging a Pistol, or passing at him with a drawn Sword, &c. He may justify the killing such an Assailant. N. Benloe 47.

But as there must be an unavoidable Necessity for Self-preservation to make killing justifiable; a Man shall in no Case justify the killing another by a Pretence of a Necessity, unless he were himself wholly without Fault in bringing that Necessity upon himself: For if a Man in Defence of an Injury done by himself, kill any Person whatsoever, he is guilty of Manslaughter. As where divers Rioters wrongfully detain Possession of a House by Force, and kill those who attack it from without, &c. Crom. 27. b. Malice must not be colour'd under Pretence of Necessity, to execute Revenge; if it be, it is Murder. Bract. Lib. 2. c. 4.

And if a Man giving a first Blow to another on a sudden Quarrel, he afterwards do what he can to avoid killing him; yet such a Person shall not be excusable, inasmuch as the Necessity to which he is at last reduc'd, was at the first owing to his own Fault. Dalt. c. 98.

A Man cannot justify the killing of another in Defence of his House or Goods, or even of his Person, from a bare private Trespass; and therefore if a Person claiming Title to another Man's House, attempts to enter it by Force, or shoots at it, or breaks his Windows in order to arrest him; or that persists in breaking Hedges, &c. after forbidden, shall in either of these Cases be kill'd, it is Manslaughter. *Cro. Car. 538. Dalt. cap. 98.*

But he who in his own Defence kills another that assaults him in his House in the Day-time, and it evidently appears his Intentions were to beat him only, is only guilty of Homicide *se defendendo*. *Pult. 119. Crom. 28.*

Where a Man is assaulted on the Highway, he may justify the killing the other without giving back to the Wall; but if a Man be assaulted in a Town he must retreat as far back as he can without apparent Hazard of his Life. *Crom. 27, 28.*

If a Person be assaulted so violently, and in such a Place that he cannot retreat back without hazarding his Life, and he kill the Person making the Assault, it is *se defendendo*. *3 Inst. 56.*

Or if a Man being assaulted retreats to the Wall, or some Streight beyond which he can go no further before he kills the other, this is *se defendendo*. *Bro. Coro. 125.*

And where one who has no other possible Means of preserving his Life from a Man who is fighting with him on a sudden Quarrel, or of defending his Person from one who attempts to beat him, kills the Person by whom he is reduced to this inevitable Necessity, it is *se defendendo*. *H. P. C. 40, 41.*

Where

Where the Law judges a Man guilty of Homicide *se defendendo*, there must be some Quarrel, in which both Parties are suppos'd to be in some Fault, so that the Necessity to which a Man is reduc'd to kill another, is in some Measure presum'd to be owing to himself: And the other's being in Fault occasions a Forfeiture of Goods, which is this Case in Homicide *se defendendo*, but there is a Pardon of course. 3 *Inst.* 57. *Bacon* 33. *S. P. C.* 15. And where a special Fact amounting to justifiable Homicide is found by the Jury, the Party is to be dismiss'd without purchasing a Pardon. *H. P. C.* 38.

In some Cases the killing of an innocent Person is justifiable; as where a Shipwreck happens, in two Persons get upon a Plank, and one of them finding the Plank not able to support them both thrusts the other from it, whereby he is drown'd, this is justifiable: For a Man may preserve his own Life at the Expence of another's, in a Case of inevitable Necessity, as this is, and there can be no Malice. *Dalt. cap.* 98.

And if a Man be awaked in the Night with an Alarm that Thieves are in the House, and searching for them in the Dark with his Sword drawn, happen to kill a Person lying hid in Part of the House, who in truth had no ill Design, he may justify the Fact, in his own Defence, and as there appears no Fault in the committing it. *Cro. Car.* 538.

If a Thief offer to rob a Person and thereupon assault him, he may defend himself without any giving back; and if in his Defence he kills the Thief, this is no Felony; for a Man shall never give way to a Thief. And if a Prisoner assault a Gaoler, the Gaoler is not by Law oblig'd to

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give back; but if in Defence of himself he killeth the Prisoner, this is no Felony. *Bract. lib. 5. Fo. 91. 3 Inst. 56.*

Besides these justifiable Homicides of a private Nature, there are Homicides relating to the publick, for the Advancement of Justice.

If any Officer or Minister of Justice, be assaulted in the Execution of a lawful Warrant, he is not bound by Law to give back: And if in endeavouring to arrest and carry away the Offender, he makes Resistance, it is no Felony to kill him, where it cannot be otherwise avoided. And in that Case the Officer or Minister of Justice shall forfeit nothing; but the Party so assaulting or offering to fly away, and that is kill'd, shall forfeit his Goods and Chattels. *3 Inst. 56.*

But a Sheriff himself cannot justifie the killing of Persons who barely fly from the Execution of any civil Process. And no private Person of his own Authority can arrest a Man for a civil Matter as he may for Felony, &c. *H. P. C. 37. Crom. 20. b.*

If a Person having actually committed a Felony, will not suffer himself to be arrested, but stands on his own Defence or flies, so that he cannot be apprehended alive by his Pursuers; he may be lawfully slain, as well by private Persons as publick Officers; and either with or without Warrant from a Magistrate. *Bro. Cor. 87, 89. Staundf. C. 13. 3 Inst. 221.*

And if a Person indicted of Felony, be in no respect guilty of the Crime, and there is in Truth no Felony committed; yet if he will not suffer himself to be arrested by the Officer who has a legal Warrant for his Apprehension, he may be kill'd by the Officer, if he cannot otherwise be taken; for there is a Charge against him upon Record,

cord, to which he is oblig'd to answer at his Peril.  
*Crom. 30. Dalt. c. 98.*

Where a Riot is committed, if those who are engag'd in it, stand in their Defence and continue the Force, after a Justice of Peace hath commanded them to desist from it, or if they resist such Justice endeavouring to arrest them, the killing them may be justified: And 'tis the Opinion of some of our Writers in the Law that private Persons may justify the killing dangerous Rioters, not otherwise to be suppress'd, and in the Defence of themselves against them. *Crom. 30. b. 158. b. H. P. C. 37. Popb. 121.*

If Trespassers in a Forest, Park, or Warren, &c. will not surrender themselves to the Keepers, upon Hue and Cry made to stand the King's Peace, but fly from them, or make a Defence, they may be slain. *Stat. 3 & 4. W. & M. c. 10.*

But if one of the Trespassers kill the Keeper, 'tis Murder in the others, if in the same Park, tho' they are at a Distance when the Fact is done, because their Entry is unlawful, and from thence Malice may be implied. *Palm. 35.*

If the Owner of a Park shoot at his own Deer, and without any Intent kill a Person, this is Homicide by Misadventure, and no Felony; but if a Man coming to rob a Park shall in shooting a Deer kill a Person, he is guilty of Murder or Manslaughter at least, tho' he had no Intention of injuring the Person, for the Design of shooting at the Deer was unlawful. *Bract. lib. 3. 120. b.*

Homicide  
excusable,  
and not so.

If a Man shoots at any Game or Birds upon a Tree, and he happens to kill a Person at a Distance without any Intention, this is *per Infortunium*; for it is not unlawful to shoot at such Wild Fowl. But if he had shot at tame Fowl, and thus kill'd

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Man, it would have been Murder, because the Act is unlawful. *3 Inst.* 56.

A Man may use an innocent Diversion, as shooting at Buts, playing at Foot-Ball, Wrestling, or such like Sports, which are attended with no apparent Danger of Life, and only for Exercise, &c. And if he kills a Person it will be excusable. *Kel.* 41. *Keilw.* 108. *Crom.* 29.

But if a Person shoot off a Gun in a City or Highway, or other Place where there is usually a Resort of People, or use tilting with Swords without the King's Command, or parry with naked Swords cover'd with Buttons at the Points, &c. which must of Consequence put the Life of a Man upon a Hazard, he is guilty of Manslaughter. *H. P. C.* 31, 32, 58. *Dalt. c.* 98. *Aleyn* 12.

And if a Person throw any Thing from a House into a Street through which he knows many People are passing, it is Manslaughter. But where a Workman, having first given loud Warning to all Persons to stand clear, flings down a large Stone or Log of Timber from a private House standing out of a Road, and thereby kills one who happens to be underneath, this is excusable. *Bract. Lib.* 3. c. 4. *Kel.* 40.

If a Labourer be at Work with a Hatchet, and the Head of it through any Accident flies off, and kills one who stands by, this is excusable Homicide. *Bro. Coron.* 59.

Where a Person shall whip a Horse on which a Man is riding, and he suddenly springs out, and runs over a Child, and kills him; the Rider is guilty of Homicide *per Infortunium*, and the Person who gave the Blow, of Manslaughter. *H. P. C.* 8, 59.

But if a Man go deliberately with a Horse us'd to strike amongst a Multitude of People, or do any



such wilful Act as shews him to be as dangerous as a Wild Beast, and an Enemy to Mankind, and Death ensues, he shall be guilty of Murder. *Dalt. c. 93, 97. 3 Inst. 57. H. P. C. 32.*

And it is no Excuse that he intended no Harm to any one in particular, or that he meant to do it only for Sport, or to frighten the People, &c.

A Keeper of a Park found a Boy stealing of Wood, whereupon he bound him to a Horse's Tail, and beat him; the Horse run away, and the Child was kill'd; adjudg'd Murder, it being a deliberate Act. *Cro. Car. 131.*

If a School-Master in correcting his Scholar, or a Father his Son, or a Master his Servant, or an Officer in whipping a Criminal sentenc'd to such Punishment, happens to occasion his Death; it is Homicide excusable; but if the Correction exceeds all Bounds of Moderation it is Manslaughter. And if they make use of a Bar of Iron, Sword, &c. kick a Person violently, and Death ensues, it is Murder. *Bract. Lib. 1. ca. 4. Crom. 28. Keilw. 136. Kel. 65. 5 Mod. 287, &c.*

I have already observ'd that a Servant may justify the killing of another in Defence of his Master; and where Persons fight in a Combat allow'd by Law, for the Trial of some special Cases, he who kills the other is justified, and the Death of the Person slain is imputed to the just Judgment of God, who is presum'd to give the Victory to him who fights in Maintenance of the Truth. *Plow. Com. 9. b. 3 Inst. 221. Dalt. cap. 98.*

Before the Statute of *Marlbridge*, Homicides by Misadventure or *se Defendendo* were adjudg'd Murder; but now it is clear that neither of these Homicides are Felonies, because they are not accompanied with a Felonious Intent, which is necessary in every Felony. *2 Inst. 149.*

And

And Murder before the making of the above-mention'd Statute, signified only the private killing of a Man, for which the Offender, when found, was to be tried by *Ordeal*; and if he could not be found, the Town in which the Fact was done was to be amerced sixty-six Marks, unless it could be prov'd that the Person kill'd was an *Englishman*; for otherwise it was presum'd that he was a *Dane* or a *Norman*, who in those Days were often privately murder'd by the *English*. *Bract* 134. 135. By the Stat. 3. H. 7. &c. a Town is to be amerced for not apprehending a Murderer.

But notwithstanding it was Murder to kill a Man by Misfortune, until the Statute of *Marlbridge*, yet the Offenders might purge themselves by pecuniary Compensations; which according to the Laws of our *Saxon* Monarchs, King *Elfred* and his Grandson *Athelstan*, were by way of Valuation of the Person kill'd according to his Quality, and particulariz'd as follow. For a Countryman kill'd, a Fine of 40 l. a Man in Orders, 300 l. a General or Captain, 600 l. A Bishop, 1200 l. an Archbishop or Nobleman, 2250 l. &c. Stat. 53. H. 3.

But if the Persons committing Manslaughter were not able to pay the Fine and Valuation of him who was kill'd, they were punish'd with Death; and premeditated and clandestine Murders were never excus'd by these Payments.

In ancient Times a Person committed for the Death of a Man might sue out the *Writ de Odio & Atia*, granted by *Magna Charta*; and if thereon by an Inquest taken, he were found to have done the Act by Misadventure, or *se defendendo*, he might be mainpriz'd by twelve Men; but this Method of Proceeding is at this time become obsolete. 9 Co. 56. 2 Inst. 43, &c.

Justices of Peace may not bail these Offences, but the Persons guilty of them, are to be committed till the next coming of the Justices of Gaol-Delivery. *Dalt. cap. 98.* Neither can the King pardon wilful Murder where the Appellee is to have Judgment of Death. *3 E. 3. 2 Inst. 316.*

Where a Person is found guilty of Murder upon the Coroner's Inquest. *B. R.* may bail him, because the Proceedings before him are upon Depositions in Writing, which may be seen by the Court; but if he be found guilty by a Grand Jury he cannot be bail'd, because the Court cannot know what Evidence they had. *Mich. 9 W. Lord Mobun's Case.*

Having particularly examin'd the Crimes of Murder, Manslaughter, justifiable and excusable Homicide, and *se defendendo*, &c. and enumerated Variety of adjudg'd Cases relating to each, I proceed to my last and only remaining Particular, *Felo de se.*

*Felo de se.*

*Felo de se* is where a Man committeth Felony by murdering himself; or Death ensues within a Year and a Day after the Stroke or Wound given. And not only he who kills himself on a deliberate and direct Purpose of doing it, but also in some Cases he who maliciously attempts to kill another, and in Pursuance of such Attempt unwillingly kills himself, shall be adjudged in the Eye of the Law a *Felo de se.* *Dalt. cap. 92.*

If *A.* discharge a Gun at *B.* with an Intent to kill him, and the Gun breaks and kills *A.* or if *A.* strike *B.* to the Ground, and then hastily falling upon him, kills himself with a Knife which *B.* happens to have in his Hand, of which Wound he dies, in either of these Cases he is *Felo de se.* *Bro. Cor. 12,*

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The Case is the same if *B.* be assaulted by *A.* and draws his Sword to defend himself, but happens to fall, and *A.* falls upon his Sword. But if *B.* being so assaulted had been driven to the Wall, and there held up his Sword, or a Knife, Pitchfork, &c. and *A.* runs hastily upon the same, and is slain. *B.* shall be adjudg'd to kill him in his own Defence. And in the Case above if *B.* after he had fallen to the Ground had held up his Sword or Knife in his Defence, and *A.* had fallen thereon and been slain. *B.* should be judged to kill him *se Defendendo*, because he exerts his Strength in his own Defence, and thereby occasions the mortal Wound receiv'd by *A.* *Putr.* 119. *H. P. C.* 28, 29.

If a Man kill another upon his Desire or Command, he is as much a Murderer in the Eye of the Law, as if he had done it meerly of his own Head, and the Person kill'd is not look'd upon as a *Felo de se*. But where two Persons agree to die together, and one of them at the Perswasion of the other buys Poison for that Purpose, and both drink of it, and he who bought the Poison survives by the Application of proper Remedies, but the other dies; the Person dying shall be adjudg'd a *Felo de se*. *Keilw.* 136. *Moor* 754.

A *Felo de se* shall forfeit all Chattels real or personal which he hath in his own Right; and also all such Chattels real whereof he is possess'd jointly with his Wife, or in her Right; and also all Bonds and other personal Things in Action, to the King, for the King is depriv'd of a Subject. But the Blood of a *Felo de se* is not corrupted, nor his Lands of Inheritance forfeited, nor his Wife barred of her Dower. 19 *H. 6. S. P. C.* 189. *Plow. Com.* 262. *Raym.* 7. 3 *Inst.* 55.

And no Part of the personal Estate is vested in the King, before the Self-murder is found by Inquisition;

sition; and consequently the Forfeiture is sav'd by the Pardon of the Offence before such finding. But if there be no such Pardon, the whole is forfeited immediately after the Inquisition, from the time such mortal Wound was given, and all intermediate Alienations are avoided. *Co. 110. b. 1 Saund. 362. Mod. 53, &c.*

A Person must be of the Age of Discretion, and *compos mentis*, to commit *Felo de se*; and therefore an Infant, or a Lunatick during his Lunacy, cannot be a *Felo de se*. *Crom. 30. Dalt. c. 93. H. P. C. 28.*

And if an Infant, within Age of Discretion, kills a Man, it is no Felony; as if he be nine or ten Years old; but if by Circumstances it appears he could distinguish between Good and Evil, it is Felony; but in such Cases Execution is respited, and a Pardon generally ensues. *Crom. 27. S. P. C. c. 9.* If one of the Age of twelve Years kill another, it is Felony.

*Murder on  
the Seas.*

If two of the King's Subjects go into another Kingdom and fight, and one of them is wounded and die there, or is wounded in a Foreign Country and die here, it cannot be determin'd at Common Law, because it cannot be tried by a Jury; but it may be decided by the Constable and Marshal, according to the Civil Law. Also the Fact may be examined by the Privy Council, and be tried by Commissioners appointed by the King in any County of *England*, by Force of the Statute 33 *H. 8. 23. 3 Inst. 48. 2 Inst. 51. Co. Lit. 75.*

In former times a Murder at Sea was triable only by the Civil Law, but now by the Statute 27 *H. 8. c. 4.* it may be determined before the Kings Commissioners in any County, according to the Course of the Common Law; but if a Person dies at Land of a Wound received at Sea, it is not deter-

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determinable by Statute, nor the Common Law; but it must be tried by the Constable and Marshal, or before Commissioners, *ut supra*. 33 H. 8. 3 *Inst.* 48. *1 Leon.* 270.

Some of our Authors tell us that the Death of one who died in one County, of a Wound given in another, was not indictable at Common Law, because the Offence was not compleat in either County, and the Jury could enquire only of what happened in their own County. But it is the Opinion of others, That if the Corps were carried into the County where the Stroke was given, the whole might be enquired of by a Jury of the same County: And it is agreed that an Appeal might be brought in either County, and the Fact tried by a Jury, returned jointly from each. 3 *Inst.* 48, 49. *Bro. Cor.* 140. *S. P. C.* 90, 182.

At this time the whole is triable by a Jury of the County, wherein the Death happens, on an Indictment found, or Appeal brought in the same County; by Force of the Statute 2 and 3 *Ed.* 6. c. 24. But a Murder in *Wales* may be enquired of in an adjoining *English* County, though Appeals must still be brought in the proper County. *Stat.* 26 H. 8. c. 6. *Bro. Appeal* 80, 83. *Cro. Car.* 246. 1 *Lew.* 118.

*Of Indictments for Murder.*

There are several material Informations worthy to be communicated, relating to Indictments for Murder; which in respect to Regularity make a separate Head proper in this place.

And first an Indictment is an Accusation drawn and engross'd, presented to the Jury to be enquired of. *Co.* 2. *Inst.* 379. And the Statute 11 H. 4. relates



relates to all Indictors as well in case of Felony, as Treason. *H. P. C.* 201.

If several Persons are indicted for Murder, the Jury cannot find *Billa vera* as to one, and Manslaughter in the other; for if they find it so, a new Bill shall be preferred against those who are found guilty of Manslaughter. 3 *Bul.* 206. 1 *Rol. Rep.* 407.

And if a Man be indicted for Murder, they cannot find *Billa vera se Defendendo*, for this is contradictory, and the Defendant must be indicted *de Novo*. 2 *Rol. Rep.* 52.

In every Indictment there are several things necessary; as first the Name, Surname, and Addition of the Party indicted. And *Misnomer* shall not be made good by an *alias dictus*. But where the Name of the Offender cannot be known, it may be *cujusdam ignoti*, because the King is entitled to the Forfeiture. *Dyer* 99.

One of the Regicides was indicted by the Name of *Henry Martyn*, who said that his Name was *Marten*, but he being known by that Name, and it being the same in Sound with what he pleaded, the Indictment was held good. And the Indictment is good by another Name, if the Party be known by both; as it is likewise, if there be a wrong Addition, or none at all, if the Party appears. *Sid.* 247.

The Place of Abode is expressly required to be set forth by the Statute 1 *H. 5. c.* 5. And if there are two Villis in one Parish, the Offender must be nam'd of such a Vill *in parochia de, &c.* and not of the Parish generally.

An Indictment was brought against a Person for murdering his Wife, setting forth that she was *in pace Dei, &c. quousq;* the Husband, *præfat'* the Wife, *de H. præd' in Com' præd'* Yeoman, &c. A doubt

arose

arose whether this Indictment should not be quash'd for want of an Addition, because if the Word Yeoman should relate to the last Antecedent, then it must have reference to the Wife; but at last it was considered by the Judges, that, *ex vi termini*, this was not an Addition to a Woman, and therefore the Indictment good. *Dyer 46.*

The next thing to be observ'd in Indictments is the Certainty of Time and Place, when and where the Crime was committed, and also in the Matter; and 'tis not enough to say he gave him a mortal Wound, without shewing when, and in what Place. *Bulst. 203.*

If a Person be assaulted one Day, and dieth a Week following; the Day on which he dies must be set forth.

A Person strikes another in *March*, whereof he dieth in *April*; the Indictment concludes that he killed him in *March*, 'tis not good; but 'tis best to conclude generally, and say he killed him, without naming the Day. *Dyer 50. Co. 4. Rep. 41, 44.*

On the 20th of *January*, &c. *percussit* the Person, *trans ei plagam mortalem*, &c. of which he died 23 *February*, and so he murdered him *die*, &c. *praedict'*; that must refer to the Day last mentioned. *Cro. Eliz. 739.*

And if a Man be indicted for striking at A. whereof he dies afterwards at B. *Et sic murderavit* at A. it is repugnant and insufficient; for he cannot be said to murder him at the first Place, when the Death is at another; no more than the Time of Stroke, where the Death was at another. *Co. 4. Rep. 42. Katherine Hume's Case.*

The County must be nam'd in the Body of the Indictment in Cases of Felony, and for any other Offence, 'tis sufficient in the Margin; but if no Town is named where the Fact was done, or any Place,

Place, and in Truth there is no such to be found, the Indictment is void. 1 Bul. 203. 18 H. 6. 12.

The word *Hereford* was in the Margin, and the Indictment was that R. G. de R. in Com' Radnor, Generosus, committed the Burglary at S. in Com' *præd'*; the Indictment was quashed, as there were two Counties named before, and it being uncertain to which the words Com' *præd'* should refer. Cro. Eliz. 436.

If a Stroke be in one County, and Death ensued in another, the Indictment in the County where the Party died, is good. Stat. 2 & 3 Ed. c. 24.

The Defendant was outlawed upon an Indictment for Murder; which was revers'd, because it did not set forth, that *ex malitia sua præcogitata* he committed the Murder, nor any Place where it was done, but where the Assault was, and that may be one place, and the Murder in another. Dyer 69. And where the Indictment was that he assaulted A. at B. & *ipsum Murdravit*, without *ad tunc & ibidem*, it is ill for Want of the place.

But in an Indictment of Murder, *Murdravit* supplies *ex Malitia sua præcogitata*. Dyer 68.

Two of my Lord Dorset's Servants quarrelling at the Fire, went out and fought in the Park, *juxta Knowl*, and one was kill'd; for which the other was indicted, but it did not set forth in what Place or County the Park was, neither was the word *Percussit*, in the Indictment, but *dedit vulnus*, and for these Reasons the Indictment was quashed. 1 Bul. 1.

But *ex malitia sua præcogitata Murdravit* is good without the word *Percussit*. Dyer 95. 1 Bul. 109.

Indictments of Treason must have the word *Proditorie*, and conclude *contra ligeantiae suae debitum*; in Murder, *Murdravit*, which is *vocabulum artis* and



and implies Malice; in Burglary, *Burglariter*, and the breaking must be of a Mansion House; in a Rape it must be *Rapuit*; in Felony, *Felonice*; for *cepit & furatus* is not sufficient, but *cepit & abduxit* is good enough. *Cro. Eliz.* 920. 4 *Rep.* 398. *Cro.* 20.

*Murderavit* instead of *Murdravit* has been held ill, but *Burgalariter* for *Burglariter* has been held good. And *Murdravit* is necessary in an Indictment, because Clergy is not allow'd for Murder. *Cro. Eliz.* 900.

Several Exceptions were taken to an Indictment of the Coroner's Inquest, for false *Latin*, as *Mamillam* for *Mamilla*, &c. Resolved that false *Latin* quashes not the Indictment, though it does an Original; but an insensible Word in a material Place, as *Burgaliter* for *Burglariter*, *Feloniter* for *Felonice*, *Murdredum* for *Murdrum*, these last being words appropriate, may quash it. *Dans unum vulnus* for *nam plagam*, ruled well enough: *Thirdly*, The length of the Wound was not shewed, but that he shot him through with a Pistol; that is certain enough, for the breadth, &c. is but set forth to shew the Mortality: *Fourthly*, 'Tis said *Dans unum vulnus fataliter penetrans*, &c. 'twas not the Wound, but the Ball did penetrate; adjudged well, for the Wound did go through: *Fifthly*, There wanted the word *Percussit*, and though it was shooting with a Pistol, the Indictment was sufficient. *Co.* 5. *Rep.* 120, 121. *Long's Case*.

A Stroke was said to be *sinistram partem Lateris*, and did not shew in what part; and this was held certain enough, because 'tis well understood what is meant by the word *Latus*. But where it was in *sinistram parte Collis*, the Indictment was quashed. *Bul.* 109.

Indictments of Murder, Felony, &c. and also of Trespass, are to be laid *vi & armis*, and conclude *contra pacem*; unless the Offence be created by Statute, and then it must conclude, *contra formam Statuti in hujusmodi casu editi & provis. &c.* But an Indictment for the Murder of a Bastard Child, ought to conclude *contra pacem*, it being Murder by the Common Law, as well as by Statute. *Rel.*

32.

'Tis not safe in Indictments on Statutes to recite the Statute *verbatim*, or the Beginning, Continuance, or End thereof, because any Misrecital will make the Indictment void; but you must set forth the Substance thereof, and the Offence; for though you conclude *contra formam Statuti*, that will not help, because those words relate only to Circumstances. *Dyer 12, 363.*

If there are two Indictments against a Man for the same Offence, (*viz.*) one found by the Coroners Inquest, and another by the Grand Jury, the Offender may be tried on both at the same time: But if he pleads not Guilty, and his Plea is recorded, yet he may withdraw it, and confess the Indictment.

Indictments for any heinous Offence are never quashed upon a Motion, but the Defendant must plead or demur to it. And if a Writ of Error be brought upon an Indictment, the Defendant must appear and put in Bail, in Person. *2 Cro. 61.* See *William Read's Case*, who was 90 Years of Age, and brought into Court in a Horse-Litter.

If an Indictment be void for insufficiency, or the Trial be in a wrong County; another Indictment will lie for the same Offence; but if the Indictment be good, and it supposeth the same Felony done in another Year, though by another Name, if the Party

be known by both, &c. a fresh Indictment will not lie. 5 Rep.

But a Man may be twice indicted where he hath committed two Felonies. *Kel. 30.* And a Person having committed divers Felonies, was indicted for one, and had his Clergy; and at the same time was indicted for another Felony, and found guilty, and changed:

Indictment of Murder, and the Defendant found guilty of Manslaughter, moved to quash it; 'tis *presentat' extitit, not existit*, but ruled good. 13 Car.

B. R. *Reading's Case.*

In an Indictment for Manslaughter, it is necessary that it should be mentioned that the Offender did the Act voluntarily; but in a Verdict it need not be so alledged, though the saying it even there must be understood to be with and not against his Will; for where any one upon killing of a Man is to be discharged by an involuntary Killing, it must be made appear, without which it will be understood to be voluntary; for a Man being a free agent, if he be found to do any Act, it must be supposed to be with his Will, 'till it is found the contrary. *Kel. Rep. 112.*

A Person was indicted for Murder, and upon his trial was found guilty of Manslaughter; and then he offered to plead the King's Pardon, which run *'Pardon' feloniam & feloniam interfection'* of the Man slain, *Non obstant Stat. 10 E. 3.* A Question arose, Whether he had not lost the Benefit of his Pardon? For he that pleads a Pardon confesseth the Fact, and relies upon the King's Mercy: And therefore, after his Pardon he plead Not guilty, he waveth his Pardon. But here a further Question was, Whether if he waved it as to Murder, he might not make use of it as to Manslaughter? And there being some Difference in Opinion, the Party was bailed, and



and upon a Certificate from the Judges of the Nature of the Case, he obtained a new Pardon. *Rel. 25.*

No one can excuse the Killing another, by setting forth in an Indictment or special Plea, that he did it by Misadventure; or in his own Defence; but he must plead Not guilty, and give the special Matter in Evidence, that the Court may judge if it were done upon inevitable Necessity. And where-ever a Person is found guilty of such Homicide, either upon a special Indictment for the same, or by a Verdict, setting forth the Circumstances of the Case, on a general Indictment of Murder or Homicide, he shall be discharged out of Prison, upon Bail, and forfeit his Goods: But upon removing the Record by *Certiorari* into Chancery, he shall have his Pardon of Course, without staying for any Warrant from the King. *Keilw. 53. 2 Inst. 316. Dalt. c. 96.*

According to the Opinion of our old Books, a Man may set forth a Fact, amounting to justifiable Homicide, in a Special Plea to an Indictment or Appeal of Murder; and that the same being proved true, he shall be dismissed, without being arraigned or obliged to plead Not guilty. *22 Aff. 55. 37. H. 6. Bro. Appeal 129. &c.* But this Opinion is contradicted by some of our Modern Authors.

In case of Murder, Burglary, or Robbery, if one be indicted as Principal, and acquitted, he cannot after be indicted as Accessary before the Fact; but notwithstanding such Acquittal, he may be indicted as Accessary after the Fact; and if he be indicted as Accessary before, he cannot be indicted after as Principal. *Staundf. 105.*

When a Man indicted as Principal, is found not guilty by Verdict, this extends to all Guilt before the Principal Fact committed, which prevents an

Indictment against him as Accessary before the Fact. But an Accessary after, tried as Principal, and found Not guilty, may be afterwards indicted; for that it is an Offence subsequent to the committing of the Fact, as receiving the Felon, &c. *Kel. 26.*

In Indictments against Accessaries, you must set forth the Manner of the Felony, and that the Defendant knowing that he had committed such a Felony, *Felonice Receptit*, &c.

If several Persons commit Murder, or other Felony, one may be both Principal and Accessary to the other. *3 Inst. 139.*

If a Man be indicted as Accessary to two, and one of the Principals appears, and is convict, the Court may try the Accessary; and if he be found Accessary to him that is attaint, he shall be condemned; and if not found Accessary to him, he may afterwards be arraigned as Accessary to the other. *S. P. C. 47.*

Where the Principal appears not, the Accessary shall be put to answer, but he shall not be tried 'till the Principal is attainted, or appear; for he may waive the Benefit of the Law. *H. P. C. 222.*

If the Principal be erroneously attainted, yet the Accessary shall take no Advantage of it; for he shall nevertheless be tried: But if the Principal die before Attainder, is acquitted by Verdict, or if after Conviction he hath Benefit of Clergy, or a Pardon, or if he be burnt in the Hand; in all these Cases the Accessary shall be clear'd. *Dalt. 339.*

If Principal and Accessary appear, and plead to the Indictment, they may be tried by the same Inquest; but the Principal must be first convict, and have Judgment, before Judgment is had against the Accessary; and the Jury shall be charged, that if they find the Principal Not guilty, they shall  
F acquit

acquit the Accessary. *Cro. Car. 409. Stevens's Case.*

By the Common Law, there could be no Accessary in one County, to Felony in another, because those of a strange County could not upon Trial have any Cognizance of the Principal Offence; but this is remedied by *Stat. 2 & 3 Ed. 6. c. 24.*

And if an Accessary be in *Middlesex*, where the King's Bench sits, and Principal in another County, the King's Bench may try the Accessary. *H. P. C. 223.*

And if the Accessary be a Peer, the King's Bench may either remove the Record by *Certiorari*, or by Writ, commanding that it be certified whether the Party be attainted or not, and leave the Record, that so the Lord Steward may send for it when he has Occasion to use it. *3 Inst. 135.*

If a Man be indicted in one County, and is afterwards indicted and arraigned of the same Crime in another County; he may plead the first Acquittal in Bar. *Staundf. 105.*

But if the Court upon the Arraignment of a Prisoner, shall discharge him of the Indictment, for want of sufficient Matter; and afterwards they change their Opinion, they may command the Gaoler to keep him in Prison, and to stand to their Deliverance, notwithstanding the former Indictment, (if Judgment be not entered) and that by the King's Prerogative, being Party to the Suit. *Staundf. 97.*

If a Gaoler suffer a Prisoner to escape voluntarily, it is Felony in him; but the Warrant for the Commitment of an Offender must be lawful, otherwise, 'tis no Felony; and if the Warrant be lawful, and in particular for Felony, and the Gaoler permit him willingly to escape, the Gaoler shall not answer to the Escape until the Prisoner be attainted.

though



though he be first indicted; for the Felony of the Prisoner shall not be tried between the King and the Gaoler. 2 Inst. 592.

But if a Felon lawfully committed, break Prison, he may be indicted for the Escape before he is attainted of the Offence, because he is Party. 39 H. 6. 35.

The Escape of a Felon from Prison, is not only Felony in Gaolers, but likewise in others. A Man was in *Newgate* for Murther, for which he had afterwards Judgment, but while he was there one of his Acquaintance went to see him, and watching the time when the Keepers were busie, he opened the little Door which was bolted and went out, and the Prisoner followed him, but the Keepers presently missing the Prisoner, made after him and his Accomplice, and soon overtook them, and brought them back; and thereupon the Prisoner's Companion was indicted for Felony, for rescuing the Prisoner, being indicted for Murder. He said he had done nothing but what he ought, to help away his Friend, who was in danger of his Life, which appearing upon Evidence, he was found guilty, but had his Clergy. *Staundf. 30, 31. Kel. Rep. 45. Copeland's Case.*

Several Persons may be indicted together in one Indictment, for one Crime, and in case some of them be found guilty by one Jury, and afterwards some of the same Jury be returned for the Trial of others in the same Indictment, it is no Challenge for those Prisoners to say, That those Jurors have already given their Verdict, and found others guilty who are indicted in the same Indictment, for the same Offence; for though they are all indicted in the same Indictment, for the same Offence, yet in the Law it is a several Indictment against every one

of them ; and the Crime is several, and one may be guilty and not another ; and the Juries are to give their Verdict upon particular Evidence against every Person severally. *Kel. Rep. 9.*

When there is an Indictment and an Appeal depending at the same Sessions or Assizes, against one Person for one and the same Crime, it is most just to proceed upon the Appeal, if the Prosecutor desires it ; but the Court may have just Cause to prefer the Indictment to the Appeal, on Apprehension of a faint Prosecution to acquit the Party, whereby the Interest of the Crown and Publick Justice will require it : Yet if the Court should try the Prisoner upon the Indictment, before he be tried upon the Appeal, and he is convicted of Manslaughter and hath his Clergy, it will be a good Bar to the Appeal. *Kel. 107.*

The Appellant in his Appeal seeks only Revenge for the Death of his Ancestor, but the King by his Indictment prosecutes to have an Example of Justice ; and the King is more concern'd in Interest being to have the Forfeiture of all the Goods and Chattels of the Offender for Murder, and the Year, Day and Waste of his Lands. *Kel. 95.*

There is no Necessity in the Crown to set down the very Day when a Treason, Felony, &c. is committed, but the Day may be either before or after the Offence ; the Jury are to find the Person guilty, if he committed the Fact, and if it be alleged'd in the Indictment before the Offence done they are to find the Day ; and the Forfeiture to the King shall relate to the Day in the Verdict, and not the Day in the Indictment. *3 Inst. 230.*

Where a Person commits Treason in counterfeiting the Great Seal, &c. the Particulars of doing it need not be set forth, but the Offender may be indicted generally of High Treason in

counterfeiting the Great Seal. 3 *Inst.* 16. But if a Man be indicted of High Treason, he may plead a Foreign Plea, as he might do by the Common Law, and shall be tried in the foreign County; but it is otherwise in Cases of Petit Treason, Murder, or Felony, for there it shall be tried in the County where the Indictment is taken. 3 *Inst.* 27.

Indictment for intending the Murder of a Person and offering a Reward to do it, will lie, tho' but an Intent; for anciently the Will was taken for the Fact. *M.* 16. *Car.* 2. *Bacon's Case.* And it will likewise lie for attempting to kill or assault a Privy Counsellor; by Vertue of the Stat. 9. *Ann.*

Indictment of Murder for perswading one to drink Poison, and *quod recepit & bibit*, and says not *venenum prædict.* to it appears not what he drank: Adjudg'd ill, and the Words after, *per quod interiit post venenum prædict.* cure it not; for the Matter of the Indictment ought to be express'd and certain by Implication. *Co.* 4. *Rep.* 44. 45. *Vaux's Case.*

This Indictment being remov'd into *B. R.* *Vaux* pleaded *Auter foitz acquit*, before the Justices of Assize. But it was resolv'd, that altho' *Auter foitz acquit* for the same Offence is a good Plea, yet it is to be intended of a lawful Acquittal, or Conviction; and when the Offender is discharg'd upon an insufficient Indictment, there the Law has not its End. *Co.* 4. *Rep.* 45.

*Weston* was indicted for giving Sir *Tho. Overbury* several Poisons at several Days, whereof such a Day he died, and says not of which, yet it is good: And upon this Indictment *Weston* was arraign'd, and had Judgment given against him. *Inst.* 50.

It one be indicted for poisoning another with Ratsbane, and the Evidence proves him poisoned



with *Cantbarides*, it well maintains the Indictment; for the Substance of the Indictment is whether the Person be poison'd or no; and 'tis no matter for the particular Circumstances. But when the Cause of the Murder is laid in the Indictment to be by Poison, no Evidence can be given of another Cause, as by Weapon, &c. tho' if the Indictment be for killing by a Sword, a Dagger, or other like Weapon, will maintain the Indictment, because 'tis killing under the same Cause, by Weapon. 3 *Inst.* 131.

A Person was indicted upon the Statute 5 Ed. 6. c. 4. for drawing of his Dagger in the Church against another, without saying that he drew it with an Intent to strike the Plaintiff; adjudg'd ill. But it was mov'd if it should not be a good Indictment as to the Assault, so as he might be fined for it. *Per Cur.* The Indictment is void for the whole, for the Conclusion of the Indictment, being *contra formam Statuti*, the Jury cannot enquire at Common Law. 2 *Leon.* 188. *Purchall's Case.*

In an Indictment on the Statute against stabbing, there is no Occasion to lay the Conclusion of it *contra formam Statuti*, because the Statute makes no new Offence. But if an Indictment lies, and a Jury find a Fact to be *contra formam Statuti*, which cannot possibly be so, yet neither such Indictment nor Verdict are void, because the Substance of the Indictment is found. And *a fortiori* therefore it is certain, they shall do no Hurt to an Indictment or Verdict containing a Fact which may be within the Statute. H. P. C. 58. *Aleyn* 47. *Cro. Jac.* 283.

But as these Words, *contra formam Statuti*, do not vitiate an Indictment which would be good without them, so they will not supply a Defect in a vicious one, which does not specially pursue the Statute. H. P. C. 58.

A. B.

A. B.  
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A. B. and C. were indicted for that they assaulted D. That A. with a Sword, cut off the Nose of D. and that B. with another Sword gave him a Wound, *Circiter pectus de tali Latitudine, &c.* whereof he died; and that C. was present, aiding and abetting; and so A. B. and C. kill'd him: Resolv'd that the Indictment was insufficient, saying, *Circiter pectus*; for the Indictment should certainly set forth the Wound, Place, Length, and Depth of it; and *Dicitur* it should be, that if he had not died of that Wound, he would have died of the other. Co. 4 Rep. 41. Young's Case.

FOR

MURDER.

F 4

P R E-

# PRECEDENTS OF INDICTMENTS FOR MURDER.

## A Common Indictment for Murder.

**I**uratores pro Domino Rege super Sacramentum suum presentant quod A. B. nuper de, &c. in Com predict. Gen Deum pre oculis non habens sed instigatione diaboli motus & seductus tertio die Novembris Anno Regni Domini Georgii Dei Cuius, &c. Tertio, &c. circa horam decimam post meridiem in Nocte ejusdem diei apud, &c. in Com predict vi & armis in & super quendam C. D. de &c. in Com predict, Peonem in pace Dei & piam Domini Regis adtunc & ibidem existentem insulsum fecit & predict' A. B. cum Gladio ad valenc' quinque solid' quem idem A. B. in manu sua dextra adtunc & ibidem extract' haluit & tenuit se-

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Ionice  
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vulne  
pō fel  
ec. pō  
partem  
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pō dic  
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& form  
volunta  
dict D

An In

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felonice voluntarie & ex malitia sua premeditata  
 p̄s C. D. apud, &c. p̄s in Com̄ p̄dict percussit &  
 vulneravit & eidem C. D. apud, &c. p̄s in Com̄  
 p̄s felonice & ex malitia sua premeditata cum gladio,  
 &c. p̄s. unum vulnus mortale in & super dextram  
 partem pectoris sui dedit longitudinis, &c. & profun-  
 ditatis, &c. de quo quidem vulnere mortali idem C. D.  
 instantiter obiit & sic Jur̄ p̄s super Sacram̄ suum  
 p̄s dicunt quod p̄s A. B. p̄s die, &c. Anno supra-  
 dict apud, &c. p̄s in Com̄ p̄s p̄refat C. D. modo  
 & forma p̄s ex malitia sua premeditata felonice &  
 voluntarie interfecit & murtheravit contra pacem  
 dicti Dom̄ Regis Cor̄on, &c.

An Indictment for a Murder committed  
 by two Persons.

**I**ur̄, &c. quod A. B. de, &c. & C. D. de, &c. in  
 Com̄ p̄ref quinto die Maii Anno Regni,  
 &c. vi & armis ex malitia sua premeditata  
 in quendam E. F. nuper de, &c. in Com̄ p̄ref  
 Peoman, apud, &c. p̄ref in Com̄ p̄ref in quodam  
 loco ibidem vulgariter nuncupato, &c. adtunc &  
 ibidem in pace Dei & dicti Domini Regis existen-  
 insult fecerunt & p̄refat A. B. cum quodam Gla-  
 dio districto ad valenc̄ 5 s. quem ipse in manu sua  
 dextra adtunc & ibidem tenuit ipsū E. F. super  
 Principut suum voluntarie & felonice tunc & ibidem  
 percussit & eo ipso ictu dedit eidem E. F. quan-  
 dam plagam mortalem in longitudine trium pol-  
 licium, de qua quidem mortali plaga p̄ref E. F.  
 tunc & ibidem instantiter & immediate obiit. Et ul-  
 terius quod p̄ref C. D. cum quodam Baculo ad  
 valenc̄, &c. (quem ipse in manibus suis adtunc  
 &

& ibidem tenuit) ipse E. F. adunc voluntarie & felonice percussit super caput suum & datus eidem E. F. unam aliam plagam mortalem in dicto capite in longitudine trium pollicium & in profunditate duarum pollicium unde idem E. F. de plaga ultima preb obtisset, si non obtisset de idem illo priore preb quem dicit A. B. ei primò dederat Et sic juratores preb dicunt quod prenominati A. B. & C. D. dicto quinto die Maii Anno supradicti apud &c. preb in preb loco vocat, &c. preb E. F. modo & forma preb ex malitia sua premeditatione voluntarie & felonice interfecerunt & murtherarunt contra pacem dicti Domini Regis, ac contra Coronam & Dignitatem suam.

### An Indictment for Murder committed in another County.

**J**ur, &c. quod A. B. nuper de, &c. & C. de, &c. Genº decimo die Aprilis Anno, &c. vi & armis, &c. Videlicet cum baculis gladiis falcatris & cultellis Domum Mansionalº cussiderunt E. F. fregerunt & intraverunt apud, &c. & in ipsum E. F. in pace Dei & dicti Domini Regis existentem adunc & ibidem apud, &c. preb in Comº preb (Qui quidem Locus vocat, &c. in Comº, &c. preb est in proximo Comitatuº adjacenti ubi breve Domini Regis nunc currit) ex malitiis suis premeditatione insultum fecerunt & preb A. B. cum quodam Cultello ad valencº, &c. quem ipse in manu sua detra adunc & ibidem apud, &c. preb in Comº, &c. preb (Qui quidem Locus vocat, &c.) habuit & tenuit predictum E. F. super dextram partem ventris ipsius E. adunc & ibid. apud, &c. preb in Comº, &c. (Qui quidem Locus, &c.) felonice percussit & de-

eidem

eidem C. adtunc & ibid' apud, &c. p̄d in Comd,  
 &c. p̄d unam plagam mortalem in dextra parte  
 pector' ipsius C. in latitudine unius pollicis & in  
 profunditate, &c. de qua quidem plaga mortali  
 idem C. F. adtunc & ibid' instanter obiit Et sic  
 p̄d A. B. & C. D. p̄d C. F. die & Anno supra-  
 dict' apud, &c. p̄d in Comd p̄d (Qui quidem  
 Locus vocat', &c.) ex malitiis suis p̄cogitat' felonice  
 interfecer' & morderaver' contra pacem dicti Domini  
 Regis nunc Coronam, &c.

An Indictment for Murder by a Husband  
 on his Wife.

**J**ur', &c. quod A. B. nuper de, &c. vicesimo  
 tertio die Augusti, &c. Deum p̄e oculis, &c.  
 in & armis, &c. in & super quendam B. adtunc &  
 ibidem uxorem ejusdem A. adtunc & ibidem in pace  
 Dei ac dicti Domini Regis existend' felonice vo-  
 luntarie & ex malitia sua p̄cogitat' insultum fe-  
 cit. Et quod p̄d A. B. ambas manus ipsius  
 A. B. circa Collum (Anglice the Neck) ipsius  
 A. B. adtunc & ibidem violenter felonice voluntas-  
 rie & ex malitia sua p̄cogitat' posuit & affixit. Et  
 quod p̄d A. B. cum ambabus manibus suis p̄d  
 ut p̄fertur circa Collum p̄d B. B. adtunc  
 & ibidem violenter felonice voluntarie & ex malitia  
 sua p̄cogitata posuit & affix. (Anglice put and  
 fasten'd) p̄d Collum ejusdem B. B. adtunc &  
 ibidem felonice voluntarie & ex malitia sua p̄co-  
 gitat' frangebatur (Anglice did break) de qua qui-  
 dam fractione p̄d Colli p̄d B. B. eadem B. B.  
 adtunc & ibidem apud, &c. p̄dict' in Comitatu  
 p̄d instanter obiit. Et sic Juratores p̄d dicunt  
 super Sacramentum suu n p̄dictum quod p̄d  
 A. B.



A. B. prefat B. B. Uxorē ejus p̄d̄o viceſſi-  
mo tertio die Auguſti, Anno ſupradict apud,  
ſc. p̄d̄o in Com̄d p̄d̄o modo & forma p̄d̄o ſelo-  
nice voluntarie & ex malicia ſua p̄recogitat̄ inter-  
fecit & m̄rdzabit contra pacem dicti Domini Re-  
gis nunc Coron. ſc.

Indictment in Petit Treason against a Wife  
Killing her Husband.

**J**ur̄, ſc. quod M. B. nuper de, ſc. vid̄ nuper  
uxor A. B. de ſc. p̄d̄o in Com̄d, ſc. Deum  
p̄e oculis ſuis non habens ſed diabolica inſtigati-  
one ſeducta contra debitum matrimonii vinculum  
ac amorem quem eadem M. B. erga p̄d̄o  
A. B. nuper virum ſuum gerere deberet ex malicia  
ſua p̄recogitat̄ machinans & intendens eundem  
A. B. nuper virum ſuum de vita ſua p̄b̄are &  
ipſum ſelonice & proditorie m̄rdzare Decimo  
die Septembris Anno, ſc. apud, ſc. p̄d̄o in Com̄d  
p̄d̄o in ipſum A. B. in pace Dei & dicti Domini  
Regis adtunc & ibid̄. exiſtend̄ inſultum fecit & cum  
quodam Malleo (Anglice a Hammer) ad valent̄  
ſc. quem eadem M. B. adtunc & ibidem in manu  
ſua dextra habuit & tenuit dictū A. B. tunc virum  
ſuum ſuper dextram partem capitis ſui ſelonice &  
proditorie percuffit dans ei quandam plagam mor-  
talem in longitudine, ſc. & in profunditate uſque  
ad calvam de qua quidem plaga mortali p̄d̄o A. B.  
adtunc & ibidem inſtanter obiit. Et quod poſtea  
eiſdem die & anno apud, ſc. p̄d̄o in Comitatu  
p̄dicto p̄d̄o M. B. circa Collum p̄dicti P. F.  
quendam funem impoſuit ipſumq̄ A. B. adtunc  
& ibidem ſelonice & proditorie ſuſpēdit unde  
de obſiſſet ſi non obſiſſet de iſtu p̄d̄o quem p̄d̄o

B. ei prius debet. Et sic p[re]d. A. B. p[re]d. A. B. die & Anno p[re]d. apud, &c. in Com[un] p[re]d. ex malicia sua p[re]cogitata felonice & proditorie interfecit & m[ur]d[er]abit contra pacem, &c.

Indictment against a Woman for murdering her Husband by Poison.

¶ Ar, &c. quod S. B. de, &c. in Com[un] p[re]d. vidua nuper uxor A. B. de, &c. p[re]dict Deum p[re] oculis, &c. & ex malicia sua p[re]habuit & p[re]cogitavit machinans & intendens eundem A. B. nuper virum suum de vita sua deprivare ac ipsum felonice & proditorie m[ur]d[er]ar[um] sexto die Junii Anno, &c. apud, &c. felonice & proditorie posuit in potu ipsius A. B. ad tunc viri sui quoddam venenum mortiferum vocat Arsenick ac potum illum sic venenatum p[re]favit A. B. ad tunc & ibidem felonice & proditorie ad bibendum dedit & ministravit qui quidem A. B. nihil fraudis aut doli versus p[re]dict S. inde suspiciens potum illum sic venenat & intorica[re] ad tunc & ibidem per instigationem & provocationem dicte S. bibit per quod eundem A. B. ab eodem sexto die Junii usque undecimum diem, &c. tunc p[ro]x[im] sequen[te] languebat quo quidem undecimo die, &c. Anno, &c. idem A. B. de veneno illo apud, &c. obiit. Et sic Juratores p[re]dict dicunt super Sacram[en]tum suum quod p[re]dict S. B. p[re]favit A. B. ad tunc virum suum apud, &c. p[re]d[ic]t in Com[un] p[re]d[ic]t modo & forma p[re]d[ic]t felonice voluntarie & proditorie intorica[re] & m[ur]d[er]abit contra pacem, &c.

An

## An Indictment for poisoning generally drawn.

**J**ur, &c. quod A. B. de, &c. in Comd' pred' Man, quinto die Octobris Anno Regni Domini, &c. apud, &c. pred' in Comd' pred' in Domo Mansionali ibidem cuiusdam C. D. nuper de, &c. pred' in dicta Comd', peoniam ex malitia sua prepenſa & premeditata voluntarie & felonice porrexit & dedit in Catillo quodam eidem C. D. ad edendum quedam olera (Anglice vocat Potrage) ex circumta venenosiſſima & aliis herbis virulentis confecta & composita que quidem olera pred' C. D. tunc & ibidem cum cochleari quod in manu sua dextra tenuit comedit unde pred' C. D. Statim postea agrotabat ac a pred' quinto die Octobris Anno supradicto in dicta Domo sua apud, &c. pred' languiebat usque septimum diem dicti Mensis Octobris Anno supradicto quo quidem septimo die Octobris Anno supradicto pred' C. D. ex dicto esu olerum predictorum in dicta Domo sua apud, &c. pred' in Comitatu pred' interit Et sic Juratores pred' presentant quod pred' A. B. prenominationum C. D. apud, &c. in Comd' pred' modo & forma pred' ex malitia sua premeditata voluntarie & felonice veneno pred' interfecit ac murderavit contra pacem dicti Domini Regis ac contra formam Statuti in Parlamento Domini Edwardi Regis Angli sexti tenet apud West' in Com. M. Anno Regni sui primo in huiusmodi casu provis' & ordinat'.



An Indictment against a Servant for killing his Master, in Petit-Treason, and against an Accessory for procuring, &c.

Ur, &c. quod A. B. de, &c. in dia' Com' nuper Serbiens C. D. de, &c. pred' in dia' Com' Grocer septimo die Augusti Anno Regni, &c. in Domo Mansionali C. D. pred' apud, &c. pred' in Com' pred' vi & armis videlicet cum gladio & pugione districtis ad valentiam, &c. quos idem A. B. tunc & ibidem in manibus suis tenuit) in prenominatum C. D. tunc Magistrum suum tunc & ibidem in pace Dei & dicti Domini Regis existen' voluntarie & ex malicia sua precogitata insultum fecit & eundem C. D. tunc Magistrum suum adtunc & ibidem cum dicto Gladio felonice & proditorie super caput suum fortiter & valide percussit Ita quod dicto ictu caput ipsius C. D. tunc Magistr' sui tunc & ibidem in duas partes fuit, dans ei plagam mortalem unde corpus dicti C. D. immediate ibidem ad terram cecidit & deus C. D. instanter ibidem de plaga predicta mortuus est. Et sic prefat' A. B. apud, &c. pred' & malicia sua precogitata eundem C. D. Magistrum suum predictum modo & forma predicta voluntarie nequiter felonice & proditorie interfecit contra pacem, &c. Et quod quidam C. F. de, &c. predict' in dicto Com' ante positionem po' (p' prefat' A. B. sic ut p'fertur voluntarie perpetratam & commissam) videlicet tertio Die Augusti Anno su' predicto eundem A. B. apud, &c. predict' in Com' po' ad positionem predictam in forma predicta perpetrando & committendam felonice consuluit excitavit & procuravit contra pacem, &c.

# An Indictment for Murder, and Petit Treason in a Servant killing her Mistrefs.

**J**ur, &c. quod quidem A. B. nuper de, &c. in  
Com̄ p̄s̄ vi & armis, &c. felonice voluntarie  
& ex malicia sua p̄cogitat. Et quod A. D. nuper  
de, &c. p̄s̄ in Com̄ p̄s̄ spinster adunc & ibi  
dem serba Domestica cujusdam C. D. vidue in vi  
ejusdem C. D. existens vi & armis, &c. felonice  
voluntarie proditorie & ex malicia sua p̄cogitata  
tercio die Januarii Anno Regni, &c. circa horam  
undecimam in nocte ejusdem diei Deum p̄e oculis  
&c. apud, &c. p̄s̄ in Com̄ p̄s̄ in & super p̄s̄  
tam C. D. adunc & ibidem in pace Dei & dicti  
Domini Regis tunc existens insultum fecerunt  
ipsum C. D. cum manibus suis in & super jugu  
lum (Anglice the Throat) ipsius C. adeo violen  
ter & mortaliter adunc & ibidem tenuerunt & p̄e  
bellerunt (Anglice held and grasped) quod ex vio  
lent̄ centione & perbulsione il' p̄s̄at A. B. felo  
nice voluntarie & ex malicia sua p̄cogitat & p̄s̄  
A. D. adunc & ibidem serba Domestica ejusdem  
C. D. existens felonice voluntarie proditorie &  
malicia sua p̄cogitat eandem C. D. adunc & ibi  
dem suffocaverunt (Anglice strangled) per quam  
quidem suffocationem eadem C. D. adunc & ibi  
dem instant̄ obiit. Et sic Juratores p̄dicti  
cunt super Sacramentum suum p̄dictum quod  
p̄s̄ A. B. felonice voluntarie & ex malicia sua  
p̄cogitat. Et p̄s̄ A. D. felonice voluntarie  
proditorie & ex malicia sua p̄cogitat p̄s̄at C. D.  
p̄dicto tercio die Januarii Anno Regni, &c. sup̄  
dict̄ apud, &c. p̄s̄ in Com̄ p̄s̄ modo & forma  
p̄dict̄ interfecerunt & murtheraverunt contra pacem  
&c. & contra formam Statuti in hujusmodi casu editi  
p̄visi.

Indict

Indictment for Murder with a Gun.

**J**ur, &c. quod A. B. nuper de, &c. in Comd p<sup>re</sup>st  
Deum p<sup>re</sup> oculis non habens sed instigatione  
Diaboli motus & seductus quarto die Septemb<sup>ris</sup>  
Anno Regni, &c. circa horam, &c. apud, &c. p<sup>re</sup>st  
in Comd p<sup>re</sup>st vt & armis in & super quendam C. G.  
in pace dei & dicti Dom<sup>ini</sup> Regis adu<sup>er</sup>sus & ibidem  
existen<sup>tes</sup> insuleum fecit & p<sup>re</sup>dict A. B. quoddam  
tormentum (Anglice a Gun) ad valenc<sup>iam</sup>, &c. quod  
dem A. B. in manibus suis adu<sup>er</sup>sus & ibidem has  
uit & adu<sup>er</sup>sus & ibidem cum pulbere sulphurato &  
globulis plumbeis onerat (Anglice charged with  
Gunpowder and Bullet) felonice & voluntarie ex  
malicia sua p<sup>re</sup>cogitat<sup>us</sup> versus & contra p<sup>re</sup>fat C. G.  
adu<sup>er</sup>sus & ibidem exonerabit (Anglice discharged) ra  
tione cuius quidem tormenti exonerationis sic ut  
p<sup>re</sup>feretur onerat p<sup>re</sup>st A. B. p<sup>re</sup>fat C. G. super  
extram Mamillam (Anglice the Right Pap) ip  
sus C. G. apud, &c. p<sup>re</sup>st in Comd p<sup>re</sup>st cum glo  
bulis plumbeis p<sup>re</sup>st ex tormento p<sup>re</sup>dict per p<sup>re</sup>fat  
A. B. sic ut p<sup>re</sup>feretur exonerat felonice & voluntarie  
ex malicia sua p<sup>re</sup>cogitata percussit penetrabit &  
l<sup>es</sup>erabit & dedit eidem C. G. adu<sup>er</sup>sus & ibidem  
cum globulis plumbeis p<sup>re</sup>st ex tormento p<sup>re</sup>st per  
p<sup>re</sup>fat A. B. sic ut p<sup>re</sup>feretur onerat super p<sup>re</sup>st  
extram Mamillam ipsius C. G. unam plagam  
toralem laticudinis, &c. de quo quidem vulnere  
dem C. G. instanter obiit, &c.

An Indictment for Manslaughter, on the  
Statute of Stabbing.

**J**ur, &c. quod A. B. nuper de, &c. in Comd, &c.  
Gen<sup>er</sup>al Deum p<sup>re</sup> oculis non habens, &c. Sep  
G timo



timo die Februarii Anno Regni, &c. vi & armis,  
 &c. apud, &c. predict in Com predict in & super  
 quendam C. G. in pace Dei & dicti Domini Regis  
 adunc & ibidem existens & p[re]s C. G. non habens ali-  
 quod telum extractum (Anglice any Weapon drawn)  
 nec p[re]s C. G. imprimis non percussiens (Anglice  
 not having first stricken) p[re]s A. B. felonice  
 insultum fecit & quod p[re]s A. B. cum quodam pu-  
 gione (Anglice a Dagger) ad valentiam, &c.  
 quem ipse idem A. B. in manu sua dextra ad-  
 runc & ibidem habuit & tenuit eundem C. G. p[re]s  
 C. G. (ut p[re]fertur) adunc & ibidem non habens  
 aliquod telum extractum nec p[re]s C. G. adunc  
 & ibidem imprimis non percussiens p[re]s A. B.  
 felonice adunc & ibidem in & super ventrem (An-  
 gllice the Belly) ipsius C. G. percussit & pupugit  
 (Anglice did stab and thrust) dans eidem C. G.  
 adunc & ibidem cum pugione p[re]s in forma p[re]dict  
 unam plagam mortalem (Anglice one deadly  
 Wound) in & super ventrem p[re]dict p[re]s C. G.  
 latitudinis, &c. & profunditat, &c. de qua quidem  
 plaga Mortali p[re]s C. G. adunc & ibidem instan-  
 ter obiit. Et sic Juratores p[re]dict dicunt super  
 Sacramentum suum quod p[re]s A. B. p[re]s C. G.  
 p[re]dicto Septimo die Februarii Anno supradicti  
 apud, &c. p[re]s in Com p[re]s modo & forma p[re]dict  
 felonice interfecit contra pacem dicti Domini Regis  
 nunc Coronat & dignitat suas & contra formam  
 Statuti in huiusmodi casu edit & provis.

### An Indictment against a Person for Chance- Medley.

**J**ur, &c. quod A. B. de, &c. in dicto Com die,  
 &c. Anno Regni, &c. apud, &c. p[re]s in Com  
 p[re]s quendam C. G. nuper de, &c. in Com p[re]s

(cui tunc & ibidem fornicato & casu obviā venit)  
contumeliosis verbis lacessivit, ac in eundem C. G.  
tunc & ibidem in pace Dei & oblati Domini Regis  
existentem ubi & aditus insultum fecit & ventrem  
dicti C. G. tunc & ibidem cum Baculo longo quem  
idem A. B. tunc & ibidem in manibus suis tenuit  
felonice pupugit & perfodit dans eidem C. G. vul-  
nus mortale in dicto ventre suo latitudinis, &c. Et  
profunditatis, &c. de quo quidem mortali vulnere  
idem C. G. tunc & ibidem instanter obiit & in-  
terit Contra pacem, &c.

### Indictment for killing a Person *se De- fendendo.*

Et, &c. quod A. B. nuper de, &c. in Com, &c.  
tali die & Anno, &c. vi & armis, apud, &c. in  
Com predict in quendam C. G. in pace Dei & dicti  
Domini Regis ad tunc & ibidem existentem insultum  
fecit super quo idem C. G. in quantum potuit usque  
ad quandam portam Domus cuiusdam C. F. ad-  
iit & ibidem existentem fugiebat ultra quam quidem  
portam idem C. G. absque vite sue periculo ma-  
nifesto evadere non potuit per quod idem C. G.  
cum Gladio, &c. quem ipse in manibus suis ad-  
iit & ibidem habuit & tenuit pro Defensione vite  
se prefat A. B. super, &c. ipsius A. B. ad tunc  
ibidem se Defendendo percussit dans ei quan-  
dam plagam mortalem de qua quidem plaga mor-  
ali predict A. B. ad tunc & ibidem instanter obiit.  
Et sic predict C. G. die & Anno supradictis apud,  
&c. in Com predict prefat A. B. se Defens-  
endo interfecit. Et non aliter, &c.

# Indictment for a Riot in a Park, and Wounding the Keeper, &c.

**J**ur, &c. quod A. B. de, &c. C. G. de, C. G. de, &c. in Comd p[re]s, &c. aggregat, &c. riotose & routose & modo insurrectionis & in conventu illic & modo guerrino armati vi & armis, &c. vicesimo quinto die Aprilis Anno Regni, &c. apud, &c. in Comd p[re]s clausum & patrum eiusdem C. G. Armigeri ibidem sese illicite riotose & routose assembler, congregaver, & unibenerunt ad pacem dicti Domini Regis disturband & ad eundem ibidem in quendam J. B. Gen custod parci p[re]dict & in L. D. servient ipsius J. B. in pace & dicti Domini Regis existent insultum fecer p[re]dict J. B. un Sagitt quodam arcu tent quoniam ibidem J. B. in manibus suis abiecit & ibidem habuit & tenuit & eundem J. B. cum Sagitt p[re]dict in pectore suo percuss dantes eidem J. B. un plagam profundit, &c. & latus, &c. ita quod de vita sua desperabatur & alia enormia ei incole ad grave dampnum ipsorum C. G. & J. B. contra pacem, &c. & contra formam Statuti, &c.

## An Indictment for Strangling a Bastard Child.

**J**ur, &c. quod quedam A. B. de, &c. in Comd p[re]s spinster gravida existens cum Infante masculo & vivo die, &c. Anno Regni, &c. apud, &c. p[re]dict Comd p[re]s Infancem vivum clam & secret & in pectore suo vivum parturit qui quidem Infans p[re]dictus sic vivus & natus existens per leges huius Regni Anglie spurius fuit (Anglice a Bastard



& quod p[re]d A. B. Deum p[re] oculis non habens sed  
instigatione Diaboli mota & seducta dicto die, &c.  
Anno supradicti & quam cito Infans p[re]d natus fuit  
v[er]bi & armis, &c. apud, &c. p[re]d in Com[un] p[re]d in &  
super eundem Infantem. P[re]dictum v[er]bum existend[um]  
in pace Dei & dicti Domini Reg. adiunc & ibidem fe-  
lonice voluntarie & ex malicia sua p[re]cogitat insula-  
tum fecit & p[re]d A. B. eundem Infantem Spu-  
rium sic v[er]bum existend[um] felonice voluntarie & ex  
malicia sua p[re]cogitat cum manibus suis circa Col-  
lum Infanti v[er]bi p[re]d fixatis apud, &c. p[re]d in Com[un]  
p[re]d suffocabat de qua quidem suffocatione p[re]d. In-  
fans spiritus adiunc & ibid[em] instant[ur] oblit[us] Et sic, &c.  
super Jur[is] p[re]d super Sacram[ent]um suu[m] ulterius di-  
cunt quod B. C. nuper de, &c. p[re]d in Com[un] p[re]d  
die, &c. ac diversis aliis diebus & vicibus ante  
feloniam & murdum p[re]dicti in forma p[re]d per-  
petrat apud, &c. p[re]d in Com[un] p[re]d malitiose &  
felonice consuluit procuravit & abettavit p[re]fat[um]  
A. B. Murdum p[re]d facere & ad interficiend[um], &c.  
contra pacem, &c.

An Indictment against a Person for killing  
an Infant in the Mother's Belly.

Jur[is], &c. quod cum quedam A. uxor cuiusdam  
C. B. de, &c. in Com[un] p[re]dicti tali die, &c.  
apud, &c. p[re]dicti in dicto Com[un] impregnata ac in  
pace Dei & dicti Domini Regis nunc adiunc & ibi-  
dem fuisset quidam tamen F. C. de, &c. p[re]dicti  
in dicto Com[un]at, &c. p[re]sciens p[re]d A. adiunc &  
ibidem fore gravidam postea scilicet, die & Anno  
supradictis apud, &c. p[re]d in Com[un] p[re]d Insultum  
fecit & cum eadem A. contra voluntatem suam  
adiunc & ibidem adeo enormiter instravit ac  
ad ipsam A. carnalit[er] cognoscend[um] maltractavit

quod quendam infantem masculinum quem eadem  
 A. adtunc gravida in utero suo vivum gestabat ad-  
 tunc & ibidem interfecti ratione ejus predicta &  
 postea scilicet die & Anno supradicti apud, &c. predicti  
 in Com. p[re]s eundem infantem masculinum abor-  
 tivum produxit sic quod predicti P. & C. predicti in-  
 fantem masculinum modo & forma p[re]s felonice  
 interfecit contra pacem, &c.

*Of Maihem, &c. and the Laws thereof,  
 and also Appeals of Maihem, with  
 Precedents of Indictments, &c.*

**M**aihem, (*Mahemium membri Mutilatio*) com-  
 eth of the French word *Mehaigne*, and  
 signifies a Corporal Hurt, whereby a Man  
 loseth a Member, so that he is less able to fight  
 and defend himself; as by putting out his Eye,  
 beating out his Fore-Teeth, breaking his Scull,  
 striking off his Arm, Hand, or Finger, cutting off  
 his Leg or Foot, &c. *Co. Lit.* 288.

The Life and Members of every Subject are un-  
 der the Protection of the King. *Bract. lib. 1. fo. 4.*  
 And Maihem was Felony by the Common Law, but  
 not of Death; for by our ancient Laws, if a Person  
 was found guilty of Maihem, the Judgment against  
 the Defendant was to lose the like Member, that  
 the Plaintiff lost by his Means. *Co. Lit.* 127. But  
 afterwards it was punished with Fine and Imprisonment,  
 and Damages to the Party. *H. P. C.* 133.

Castration is Maihem, but cutting off the Ear  
 is no Maihem; though for this Offence an Indict-  
 ment will lie, with only this Difference from Maihem,

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that when a Fine is set the Justices cannot encrease it upon View of the Person main'd, as the Court of B. R. may. *H. P. C. 119.*

By the Statute 5 *H. 4. c. 5.* To cut out the Tongue, or put out the Eyes of any Person, of Malice prepense, is Felony; and where a Man doth any Act of this Nature voluntarily, the Law judgeth it of Malice prepense, as in case where a Man killeth another without Provocation. *3 Inst. 62. Kel. 65.*

And the Statute 22 and 23 *Ch. 2. c. 1.* enacts, That if any Person shall on Purpose, and of Malice fore-thought, and by lying in Wait, unlawfully cut out or disable the Tongue, put out an Eye, slit the Nose, cut off a Nose, or Lip, or cut out or disable any Limb, or Member, of any Subject of his Majesty, with intention in so doing to maim or disfigure, in any the Manners before mentioned, That then, and in every such case the Person or Persons, so offending, their Counsellors, Aiders, and Abettors, knowing of, and privy to the Offence as aforesaid shall be, and are by the said Statute declared to be Felons, and shall suffer Death as in cases of Felony, without Benefit of Clergy.

One *Stapleton* was convicted at the Sessions in the *Old Baily* upon this Act, for putting out the Eye of one *Russel*, by flinging Mercury in his Face. *Hill. 1 Jac. 2.* But he pleaded his Pardon.

In Appeal of Maihem, a Defendant shall not make an Attorney; it is contradictory to the Common Law. The Plaintiff appears by Attorney, and declares against the Defendant, the Defendant prays that the Plaintiff may be demanded, for that he cannot appear by Attorney; and resolved by the whole Court that the Plaintiff could not appear by Attorney, for the Plaintiff may demand



Oyer of the Maihem, &c. which shall be peremptory. 2 Inst. 313. *Hudson versus Marwood.*

The Plaintiff's Counsel pleaded that the Plaintiff in an Appeal of Maihem might appear by Attorney, for that it might be that he was so wounded as he could not appear in Person: But it was resolved, That although it may be hard in some particular case for the Plaintiff to appear in Person, by reason of the Grievousness of the Maihem, yet that must not change the Law, nor take from the Defendant his just Defence and Trial; and the 16 H. 7. a Person whose Legs were broken by a Maihem, was obliged to appear. 2 Inst. 313.

In an Appeal of Maihem one of the Defendants pleaded *Nul tiel in rerum Natura*, as another of the Appellees, and if it be not found, then as to the Felony and Maihem, Not guilty: Agreed by the whole Court that such a manner of Pleading is not to be suffered in an Appeal of Maihem, because no Life is put in Danger; And yet it was objected that there are Precedents, that such form of Pleading hath been admitted in Appeals of Maihem. And the Court yielded to this Opinion in cases of Appeals of Death, that it stands *in favorem vite*; but no Life is in danger in this Case, and therefore such a Plea shall not be admitted, but the Not guilty shall stand. *Poph. Rep. 115. Kirton and Hoxton.*

In an Appeal of Maihem, if the Defendant plead Not guilty, he cannot give in Evidence that it was *se Defendendo*, for that he ought to plead it by way of Justification in Bar of the Action. 2 Inst. 316.

There is a Diversity between the Defence of a Man's Person, and the Defence of his Possession or Goods; for a Man in Defence, or for the Preservation of his Possession of Lands or Goods, may

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not justifie Maiming or Wounding, but he may justifie an Assault and Battery. *2 Inst.* 316.

In an Appeal of Maihem, a Release of all manner of Actions Personal, is a good Plea in Bar, for that in such an Action a Man shall recover nothing but Damages: And every Action wherein Damages only are recoverable by the Plaintiff, is in Law taken for an Action Personal. *Co. Lit.* 288.

But in an Appeal of Robbery, if the Defendant pleads a Release of all Actions Personal, this is no Plea; for an Action of Appeal where the Appellee shall have Judgment of Death, &c. is of a higher Nature than an Action Personal, and there if the Defendant will plead a Release of the Appellant, to bar him of the Appeal, he must have a Release of all manner of Appeals, or all manner of Actions, &c. *Co. Lit.* 288.

And a Release of all Actions real and Personal cannot bar an Appeal of Death; for that Release extends only to Common or Civil Actions, and not to Actions Criminal: But a Release of all Actions Criminal, or concerning Pleas of the Crown, &c. are good Bars in Appeal of Death. *21 H. 6.* 16.

In ancient Times if a Lord had maimed his Villain, the Villain might not have by Law any Appeal of Maihem against his Lord, but he might be indicted at the King's Suit, and punished by Fine and Imprisonment. The reason why the Villain might not have an Action was, there being only Damages to be recovered in an Appeal of Maihem, the Villain in that case had Damages against his Lord, and Execution, the Lord might take from the Villain what he thus procured in Execution, and so the Recovery would be in effect frustrated. *Co. Lit.* 126.

In the County of Leicester one Wright a lusty young Fellow, to make himself Impotent, and there-

thereby to have the better Pretence for Begging so as to be relieved without applying himself to any hard Labour, caused his Companion to strike off his left Hand, and both of them were indicted and fined. *Anno 11 Jac. 1. Co. Lit. 127.*

One *Thomas Bicknel* and *Anne* his Wife disagreeing, she applied her self to one *Golding* a Parson, and offered him 40 s. to chastise her Husband by Whipping; the Parson undertook this Task, and coming to *Bicknel's* House, disguised in a Female Dress, he approached the Chamber where he was, and endeavoured to whip him with a large Rod; *Bicknel* made Resistance, and in the Scuffle, both the Parson and he were bruised; the Parson ran away, but *Bicknel* died a little while after the Fray was over; all this appearing by Evidence, the Wife and the Parson were each of them fined 500 l. *Popb. Rep. 129.*

Before the Statute 22 Car. 2. It was a Question Whether cutting off the Privy Members of a Man, though he should be taken in Adultery with another Man's Wife, was Felony or not? for according to *Bracton*, *sequitur poena aliquando capitalis*, but notwithstanding, *Anno 13 H. 3.* one *John* a Monk, being taken by *Henry Hull* in the Act with his Wife, he cut off the Privy Members of the Monk, and was only indicted for a Maihem. *3 Inst. 118.*

His Indictment run thus; *H. Hull Indictatus facti de Maibemio, eo quod abscidit virilia Johannis Monachi, &c. quem idem H. deprehendit, &c. cum uxore sua, &c.*

And *Camden* mentions, *Dominus Robertus Neco (cum numerosam prolem ex uxore suscepisset) ignotus in adulterio deprehensus, & ab adulteræ marito vindictam genitalibus mutilatus, brevi, vi doloris exspiravit. Camd. Brit. 593.*



If a Bone, Finger, or Joint, be broken or wounded, that is made crooked, and shrinks, this is Maihem, as it occasions Deformity, and a Corporal Hurt, whereby the Use of a Limb may be lost or injured. And my Lord Coke tells us, that the Offence of Maihem is under all Felonies deserving Death, and above all other inferior Offences. *Inter Crimina majora minimum, & inter minora maximum.* 1 Inst. 127.

In all Appeals and Indictments of Maihem, the words *Felonice Maihemavit*, are necessary. 3 Inst. 63. But this is not always the Method of proceeding, for a Man may bring an Action of Trespass for an Assault, Battery, and Maiming, &c. And in this Action the Court may encrease the Damages upon View of the Maihem and Affidavits of Expences, &c. *Slid.* 168.

An Indictment for Maihem.

**J**ur, &c. quod Septimo die Octobris Anno Regni, &c. A. B. de, &c. in Com p<sup>re</sup>s Yeoman & armis clausum cuiusdam C. C. apud, &c. predict in Com p<sup>re</sup>s fregit & intravit & in dict C. C. adtunc & ibidem in pace Dei & dicti Domini Regis existend insultum fecit, ac cum quodam Gladio districto (or as the Case is,) ad valene- rium solidorum quem dictus A. B. tunc & ibidem in manu sua dextra tenuit prefat C. C. malitiose & illicite verberavit ac dextram pollicem p<sup>re</sup>s C. C. adtunc & ibidem amputavit ac sic eundem C. C. requiter & \* Felonice adtunc & ibidem Maihemavit & grave nocumentum ipsius C. C. ac contra pacem dicti Domini Regis Coronam & Dignitatem suas.

\* The word Felonice is requisite in this Indictment,

it being formerly Felony, at Common Law. 3 Inst. 13.

An

## An Indictment for putting out a Man's Eyes.

**J**ur, &c. quod A. B. de, &c. in Comd p[re]s  
Yeoman die, &c. in quodam loco apud, &c. in  
Comd p[re]s vt & armis in quendam C. C. de, &c.  
p[re]s in Comd p[re]s in pace Dei & dicti Domini Regis  
tunc & ibidem existend[um] insultum fecit & adtunc & ibi-  
dem ex malicia sua p[re]cogitata cum quodam Baculo  
quod ipse A. B. in manu sua dextra adtunc tenuit  
pretii, &c. oculos ipsius C. C. Felonice effodit &  
eruit contra pacem dicti Domini Regis Coronam  
& Dignitatem suas, ac contra formam Statuti in  
huiusmodi casu editi & probis.

## Another Indictment for the same.

**J**ur, &c. quod A. B. de, &c. in dict Comd Tay-  
lor die, &c. Anno Regni, &c. in quodam loco  
apud, &c. vi & armis in quendam C. C. de, &c. in  
Comd p[re]dict in pace Dei & dicti Domini Regis tunc  
& ibidem existend[um] insultum fecit & tunc & ibidem  
ex malicia sua p[re]cogitata digitis & unguibus digito-  
rum ipsius A. B. oculos ipsius C. C. Felonice  
effodit, &c.

An Indictment against a Person for cutting  
out the Tongue of another.

**J**ur, &c. quod A. B. nuper de, &c. die, &c. vi & armis  
in & super quendam C. C. adtunc & ibidem  
in pace Dei & dicti Domini Regis existend[um] apud  
&c. in Comd p[re]s insultum fecit & ipsum verbera-  
rabit, vulnerabit ac quodam cultello quem p[re]s  
A. B. adtunc in manu sua dextra tenuit pretii, &c.

Linguam ipsius C. D. abtunc & ibidem Felonice  
eruit & amputabit contra pacem, &c. & contra for-  
mam Statuti, &c.

Indictment for cutting off the Thumb of  
a Person.

JUR, &c. quod secundo die Aprilis Anno Regni,  
&c. A. B. & C. D. in Comd, &c. vi & armis  
quoddam Clausum cuiusdam C. F. apud, &c. pdict  
in Comd pd fregit & intravit & in dict C. F. tunc &  
ibidem in pace Dei & dict Domini Regis existend  
insultum fecit ac cum Gladio districto ad valentis-  
am, &c. quem dicens A. B. tunc & ibidem in manu  
sua dextra tenuit eundem C. F. malitiose & illi-  
cite verberavit ac dextram pollicem dicti C. F.  
tunc & ibidem uno ictu amputavit ac sic eundem C.  
F. nequiter ac felonice tunc & ibidem mathemavit  
ad grave incommodum ipsius C. F. ac contra pa-  
cem, &c.

Of Rape, and the Laws concerning it;  
Appeals of Rape, &c. and Variety  
of Modern Cases, Indictments, &c.

**R**APE, (*Raptus*,) I have already defin'd in the  
Beginning of this Treatise, to be a carnal  
Knowledge of a Woman by Force. And the car-  
nal Knowledge of a Woman Child above the Age  
of 10 Years against her Will, or of a Female un-  
der the Age of 10 Years, either with or against  
her Consent, is Rape and Felony without Benefit  
of Clergy. 3 Inst. 60.

The



The Doubt that was made 14 Eliz. of what Age a Woman might be ravish'd, was the Cause of making the Stat. 18 Eliz. for a plain Declaration of the Law, that if any Person should unlawfully know and abuse any Woman Child under the Age of ten Years; It should be Felony; and the Offender should suffer as a Felon. Dyer 304.

But there must be a Penetration of the Body, that is *res in re*, or it is no Rape, altho' there be *Emissio Seminis*; for the Words of the Indictment are *Carnaliter cognovit*, &c. but Emission is *prima facie* an Evidence of Penetration. 3 Inst. 60.

If a Woman yields to the Violence, and such her Consent was forced by Fear of Death, or of Duress; this does not mitigate the Crime in the Ravisher; nor is it any Excuse that she consented after the Fact, or that she was a common Strumpet, for she is still under the Protection of the Law, and may be forced; tho' the Law has some Regard to the latter where 'tis notorious; and formerly 'twas held to be no Rape to force a Man's own Concubine. *Dalt. c. 105. Bract. 147.*

It has been likewise held by some Persons to be no Rape to force a Woman who conceives at the time of the Act, as being impossible for a Woman to conceive under the Force, and without a tacit Consent: But this Opinion is very doubtful, especially if there should be a lascivious Female in the Case; and admitting it was unquestionable, the previous Violence is no Way extenuated by a subsequent Consent. *S. P. C. 24 Finch 204. Bract. 148.*

Upon an Indictment for this Offence, it is no way material whether a Child consented or was forced; tho' it must be prov'd that the Offender enter'd her Body, &c. And it is a strong Presumption against a Woman that she made no

Com-

Complaint in a reasonable time after the Fact committed. *Cro. Car. 332.*

In ancient time Rape was Felony, and punishable with Death; unless the Woman ravish'd, being a Virgin would accept of the Offender in Marriage; in which Case she might demand him or her Husband before Judgment, and save his life. *2 Inst. 180.*

This was only in the Will of the Woman, and not in the Man, to demand the Female ravish'd or his Wife; yet I find in our Books that one *Penwick* having ravish'd *Matild* the Daughter of *Edward de Wharton*, in a shameless Manner, he desir'd to have her to Wife, which was granted by the Justices, and he was affianc'd to her in open Court. *Hill. 6. E. 1.*

The Crime seem'd to be too much favour'd by this Determination; and afterwards it was look'd upon as a great Misdemeanour only, and not Felony, but punishable with the Loss of Eyes and Privy Members. And by the Statute of *Westm. 1.*

*3.* It was reduced to Trespass, subjecting the Offender to two Years Imprisonment, and a Fine; but the lessening of the Punishment proving a great encouragement to the Offence, it was again made Felony, excluded from the Benefit of Clergy as it now stands. *Stat. Westm. 2. 34. Co. Lit. 123. Inst. 180. Dalr. c. 99.*

We read in History of the Rape of chaste *Lucretia*, who was found in extream Heaviness after the Fact was committed: And notwithstanding some Laws have formerly been made favourable to this Crime; yet in the Parliament-Rolls we find so great a Detestation of it, that at the petition of *Isabell* the late Wife of Sir *John Bote*, Kt. setting forth that one *William Pull*, Gentleman had shamefully ravish'd her, it was enacted by

by the Authority of Parliament, that if *William Pull* did not surrender himself after Proclamation, he should be taken as a Traitor attainted: And the same *Isabell* by another Petition shew'd how the said *William Pull* by Menace of Imprisonment enforced her, and pray'd her Appeal, which was granted. *Rot. Parl. 15. H. 6. 3 Inst. 60.* The Case of Dame *Joan Beaumont* was likewise taken Notice of by Parliament.

But the Case of my Lord *Audley* in assisting his Servant to commit a Rape on his own Lady, exceeds any Thing I meet with of this Nature, either in the Rolls of Parliament, or other Records, especially join'd with the Crime of Sodomy at the same time, of which two several Indictments were prefer'd against him, and he was found guilty by his Peers; but there were several Lords for acquitting him of the latter, tho' only one was against the Sentence pass'd upon him for the Rape, which was my Lord *North. 6 Car. 1. Hutt. 116.*

My Lord *Coventry* was made High-Steward for the Trial of this Peer, and upon a Question put to the Judges who attended at his Arraignment, Whether the Wife might be produc'd as a Witness against her Husband? It was resolv'd, That in Case of a common Person, between Party and Party, she could not, according to the Opinion in *Coke's Institutes, f. 6*, but between the King and the Party upon an Indictment she may, altho' it concerns the Feme. her self, as she may have the Peace against her Husband; whereupon the Trial proceeded, and he was found guilty. *Hutt. Rep. 116.*

And as there is a Diversity between the Proceedings of the King and a common Party, upon Indictments of Rapes, &c. in Favour of the King, so there is a Diversity in Case of Appeals to the

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Advantage of the Subject, with Relation to Pardons; for in an Appeal, which is the Suit of the Party, the Pardon of the King will not discharge the Offender, as it does upon the Indictment. 2 *Inst.* 434.

All who are present and actually assist a Man in the committing of a Rape, may be indicted as principal Offenders, whether they be Men or Women. *Dalt. c.* 107.

A Feme Covert may bring Appeal of Rape without her Husband. *Br. 1.* And if a Woman be ravish'd by the next of Kin, and she consents to him, and hath neither Husband nor Father to prosecute the Appeal, the next of Kin to him shall have the Appeal of Rape, for he hath disabled himself by the Act, whereby he becomes a Felon. 28 *H. 6. Coro.* 459. And a Man committing a Rape may be attainted at the King's Suit, where the Woman consents after. 3 *Inst.* 131.

If a Woman be assaulted in one County, and ravish'd in another, the Appeal of Rape lies in that County where she was actually ravish'd. *H. P. C.* 186.

At the Sessions in the Old Baily, Anno 16. Car. 1. *John Locost* and *Lawrence Villars* were indicted for breaking into a Man's House with an Intent to ravish his Wife, and also for Rape; and were found guilty, and had Judgment to be hang'd. Upon the Evidence it appear'd that the Woman was actually ravish'd by one, and afterwards they thrust a lighted Torch betwixt her Legs, &c. *Kel.* 30.

Tho' the Stat. 18 *Eliz.* makes it Felony to carnally know a Woman-Child under ten Years of Age, it is very seldom any Persons suffer, by reason of the Difficulty to prove a Penetration,  
H which,

which, as I have already observ'd, is essential in Rapes.

*Anno 9. Car. 1.* A Man was indicted at the *Old Baily* for that *carnaliter cognovit* an Infant under the Age of ten Years; and as it could not be prov'd he enter'd her Body, altho' he abus'd her very much, he was indicted of Battery, and on Conviction was fin'd 100 Marks, sentenc'd to stand in the Pillory, was committed during the King's Pleasure, and bound to the good Behaviour during Life. *Cro. Car. 332. Martin Page's Case.*

A Person was lately indicted for ravishing an Infant of eight Years of Age, her Linnen was prov'd discolour'd, the Parts swell'd and widen'd; but it did not appear by what Means; one depos'd that she had examin'd the Child, and believ'd the Abuse was receiv'd from some Boy; and another depos'd that the Child had confess'd she did it with her Finger, tho' she now charg'd the Prisoner with it. The Child being so young the Court would not give her her Oath; and as she was under the Age of ten Years, had the Fact been prov'd, it was only an Assault in the Eye of the Law, and no Rape, whereupon the Prisoner was acquitted. *William Picket's Case.*

But in the first Year of the late Queen, a Person was indicted for ravishing and carnally knowing a Girl of ten Years of Age. It appear'd by the Evidence that the Prisoner carried her to an Alehouse and made her drink, from whence taking her to another House and sitting down upon the Stairs, he took the Girl upon his Lap, and committed a Rape upon her Body, she at the same time crying out. The Surgeon depos'd that her privy Parts were spoil'd, and that she had the venereal Distemper, the Infection whereof she could

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not receive without carnal Knowledge of a Man. whereupon he was found guilty, receiv'd Sentence of Death, and was executed. *Simpkin's Case.*

And *Alice Gray* was executed for holding a young Girl whilst another ravish'd her. *Old Baily 7 Ann.*

*Anno 1 Geo.* A Woman repair'd to the House of a certain Bailiff, and being shew'd the Rooms by a Servant in the Company of a Lodger of the House; the Servant lock'd them into a Chamber, and then the Lodger ravish'd her. The Evidence was the Woman her self, who depos'd that she call'd out aloud for help, but no Body came to her Assistance, and that when the Door was open, she immediately complain'd of the Injury. But the Evidence for the Prisoner was, that immediately after he came down Stairs there was an open Familiarity between her and the Prisoner, and therefore it could not reasonably be intended that they should have a Difference so lately, which concern'd his Life; and tho' a Woman cannot be ravish'd by one Man without some extraordinary Circumstances of Force, yet the Jury found them both guilty; but they were pardon'd. *Leesin and May's Case.*

To prove what I have asserted, that the Law has some Regard to Force us'd on a common Strumpet, I shall here insert a Case which happen'd *Anno 3 Geo.*

*Jacob Wykes* and *John Johnson* were indicted at the *Old Baily* for the Rape of *Anne Cowper* a Female of 27 Years of Age. The Prosecutor going to the House of the said *Wykes* (which was the *Globe Tavern* in *Drury-Lane*) to enquire for *Captain Hacket*, in a Message from one *Mrs. Shou-*  
*er*, depos'd that *Wykes* took her into a back Room,



stopp'd her Mouth, threw her upon the Table, and lay with her by Force; *Johnson* his Drawer holding the Door all the while. That she immediately complain'd to a Constable, who with her got a Justice's Warrant to apprehend *Wykes*; that *Johnson* had ask'd her Pardon on his Knees, and that *Wykes* had made her a Present of 10 s. for tearing her Smock. The Justice's Clerk depos'd, that he saw her Cloaths rumpled, her Arms bruis'd, and that she had declar'd to him she was injur'd in other Parts, which he did not examine; her Landlord gave her the Character of a modest Person; but the Evidence for the Prisoner making it appear that she was notorious at swearing pretended Rapes against Persons, and Bastard-Children, when she was neither ravish'd or with Child; that she was a common Woman of the Town, and had been for some Years; upon the whole the Jury acquitted both the Prisoners.

I have only one Case more to add under this Head, which is of Rape and Murder, and a very extraordinary one. *John Price* was indicted for the Murder of *Elizabeth* the Wife of *William White*. One Evidence depos'd that coming over *Bunhill-Fields* about ten a Clock at Night, he heard a Woman groan, and the Prisoner say to her, *Damn you for a Bitch why don't you put it in?* Other Persons coming with a Candle and Lantern saw the Woman lie on the Ground with her Cloaths up to her Belly, and Streams of Blood issuing out of her Eyes and Mouth: Other Witnesses depos'd that one of her Arms was broke, and some of her Teeth knock'd out; and the Surgeon depos'd that the Scalp of her Head was bruised and contus'd, and the upper Part of her Womb very much tore and lacerated, and that her Wounds were the Cause of her Death. The Prisoner varied in his

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Account of the Place where he met with the deceased; his Hands, Coat and Apron were all bloody, and he not being able to clear himself, tho' he pretended he found her lie in that deplorable Condition, and was only assisting her in getting up when he was apprehended, the Jury readily found him guilty of the Murder, and he was hang'd in Chains. *Anno 4 Georg.*

The taking away a Woman, either Maid, Wife, or Widow, that hath Substance in Lands or Goods, or is Heir apparent, by Force, and marrying her, is Felony by Statute 3 *H. 7. c. 2.* But a Man may force a Woman to make a Contract of Matrimony without being guilty of Felony. And as it is Felony to steal a Woman and marry her, so it is likewise for a Man above the Age of 14, or a Woman above the Age of 12, to marry a second Wife or Husband, the first being then living. *Stat. 1 Jac.* [Handsome *Fielding* was found guilty of Felony by this Law for marrying the Dutches of *Cleveland*, he having another Wife at the same time] But if either a Husband or Wife shall be beyond the Seas, or be absent in *England*, the Space of seven Years, and the one of them not know whether the other be living within that time, it is not Felony to marry again. *Stat. 1 Jac. 1. c. 11.*

Where a Woman is taken by Force in the County of *A.* and married in the County of *B.* the Offender may be indicted and found guilty in the County of *B.* because the continuing of the Force there amounts to a forcible Taking within the Statute. *Cro. Car. 488. Hob. 187.*

*Anno 2 Ann.* A Person was indicted at the *Old Bailey* for stealing an Heiress worth 2000 *l.* in Money and 20 *l.* a Year Estate in Lands; he procur'd her to be arrested, and threaten'd that she should

go to *Newgate*, if she did not marry him; and thereupon out of Fear she was married to the Prisoner, without her Consent. The Prisoner in his Defence said that she had shewed him singular Signs of her Love; that she had been uneasie if he sat not next to her, had been on Shipboard with him, discarded her former Lover, &c. But the Jury found him guilty, and he was hang'd. *Swendsen's Case.*

### An Indictment for a Rape.

**J**ur, &c. quod A. B. de, &c. in Com p̄s p̄s  
man Deum p̄s oculis non habens sed instiga-  
tione Daboli motus & seductus undecimo die  
Aprilis Anno Regni, &c. vi & armis, &c. apud, &c.  
in Com p̄s in & super quandam B. D. etatis  
Octodecim Annorum in pace Dei & dicti Domi  
Reg. adtunc & ibidem existē felonice insultum fe-  
cit & eandem B. D. adtunc & ibidem contra volun-  
tatem & sine consensu p̄s B. D. Felonice rapuit  
(Anglice did ravish) & carnaliter cognovit contra  
pacem dicti Domi Reg. nunc Coronam & Dignitas  
tem suas necnon contra formam Statut. in hujus-  
modi casu edit & provis.

### Indictment for the Rape of a Woman-Child under ten Years old.

**J**ur, &c. quod A. B. de, &c. in Com p̄s sexto  
die Augusti Anno Regni, &c. apud, &c. p̄s  
in dicto Com in Domo Mansionali ibidem cusu-  
dam C. D. de, &c. vi & armis in quandam A. L.  
de, &c. p̄s in dicto Comitatu puellam infra etatem  
decem Annor tunc existē insultum fecit & tunc  
& ibidem eandem A. L. felonice ac carnaliter cog-  
novit



nobis ac eandem A. L. nequiter abusus Et, contra pacem dicti Domini Regis, ac contra formam Statuti in Parlamento Domini Eliz. nuper Regine Angli tento apud Westm in Com Middlesex Anno dicti Regni sui 18 in huiusmodi casu edit, &c.

An Indictment against a Person for the Rape of a Maid above the Age of ten Years.

**J**ur, &c. quod A. B. de, &c. in dict Com quinto die Decembris Anno dicti Domini nostri, &c. apud, &c. p̄s in Com p̄s in quodam loco ibid vocat, &c. vi & armis in quandam B. L. de, &c. in Com p̄s Virginem Etatis Serdecim Annozum tunc & ibidem in pace Dei & dicti Domini Regis existentem insultum fecit & tunc & ibidem eandem B. contra voluntatem ipsius B. felonice rapuit & carnaliter cognovit contra pacem, &c. ac contra formam Statuti, &c.

Indictment for an Assault with an Intent to ravish.

**J**ur, &c. quod A. B. nuper de, &c. secundo die Aprilis Anno Regni, &c. vi & armis, &c. apud, &c. p̄s in Com p̄s in & super quandam B. M. uxorem T. M. in pace Dei & dicti Domini Regis nunc ad tunc & ibidem existentem violenter insultum fecit ea intentione ad ipsam B. M. ad tunc & ibidem rapiend & carnaliter cognoscend & alia enormia eidem B. M. ad tunc & ibidem intulit ad grave dampnum ipsius B. M. & contra pacem. &c.

# An Indictment against several Persons for procuring others to accuse a Man of Fe- lony and Rape.

**I**ur, &c. quod, A. B. nuper de, &c. in Com  
pres Gen existen persona malorum nominis  
fame & conversationis inhoneste falso & maliciose  
machinans intendens & devisans quendam C. D.  
Arm non solum de bonis nomine fama statu &  
creden ipsius C. D. falso nequiter & maliciose de-  
privare sed etiam prefat C. D. in manifest. peric-  
ulium amissionis vite sue necnon omnium singulo-  
rum honor & catallorum terrarum & Tenementor-  
um suorum satisfacture inferre die, &c. Anno  
Regni, &c. apud, &c. pres in Com pres per per-  
missionem & remunerationem (Anglice Reward) &  
quosdam pecuni summas C. F. G. H. & I. ur.  
es in ea parte dat & solut eisdem C. F. G. H.  
& I. uxor esus falso illicite & maliciose causabit &  
pcurabit, & ad onerand & accusand ipsid prefat C.  
D. cum Felonia & ad crimen felonie eidem C. D.  
falso & maliciose imponend de eo quod ipse prefat  
C. D. ante pres diem, &c. apud, &c. pres in Com  
pres in & super pres I. uxorem prefat C. H. fe-  
lonice insult. & quod pres C. D. vi & armis, &  
eandem I. contra voluntatem ipsius I. violent & fe-  
lonice rapuisset & eandem I. contra voluntat ipsius  
I. violenter & felonice carnaliter cognovit per quod  
pres C. D. multipliciter & graviter vexat & perturbat  
fuit in malum exemplum omnium aliorum in hu-  
iusmodi casu delinquen. & contra pacem, &c.

The Indictment against my Lord Audley  
for the Rape of his Lady.

¶ Ur, &c. quod Martinus Dominus Audley nuper de Fountell Gifford in Comitatu Wiltes & Egidius Broadway de Fountell Gifford p̄s in Com̄ p̄s Generosus, timorem Dei p̄ oculis suis non habentes, sed instigatione Diabolica moti & educi vicesimo die Junii Anno Regni Domini nostri Caroli dei Gratia Anglie, Scotie Francie & Hibernie Reg' fidei Defensoris sexto apud Fountell Gifford p̄s in Comitatu p̄s vi & armis &c. in super Annam Dominam Audley uxorem p̄s Domini Martini Audley in pace Dei & dicti Domini Regis ibidem existent' insult fecerunt & p̄ Egidius B. p̄dictam Annam Dominam Audley vi & armis & contra voluntatem ipsius Anne adtunc ibid' violenter & felonice rapuit, ac ipsam Annam adtunc & ibidem contra voluntatem suam violenter & felonice carnaliter cognovit contra pacem, &c. & contra formam Statuti, &c.

Et ulter' Jur' p̄dicti dicunt super Sacramentum p̄s, quod p̄s Martinus Dominus Audley p̄dict' vicesimo die Junii Anno supradicto apud Fountell Gifford p̄dictam, in Comitatu p̄dicto felonice fuit p̄s, auxilians & confortans, abetans, procurans, adjuvans, & manutenens p̄dictum Egidium B. ad feloniam p̄dict' in forma p̄dicta felonice faciend' & perpetrand' contra pacem, &c.

An Indictment for stealing away a Virgin.

¶ Ur, &c. quod cum per Statutum Parliamenti Domini & Domine P. & M. nuper Regis & Regine Anglie Annis Regnorum, &c. quarto & quinto



quinto apud Westm' in Comd M. tenet edit inter  
 cetera ordinat existit quod si aliqua persona sive  
 persone ultra etatem quatuordecim Annorum exis-  
 stent post primum diem Aprilis Annis supradictis  
 illegitime ceperit aut abduxerit vel cogni aut ab-  
 duci fecerit aliquam puellam vel Infantem femine-  
 am innupt infra etatem Quindecim Annor existens  
 aut extra possessionem custodiam seu gubernationem  
 contra voluntatem parentis talis puelle aut Infan-  
 tis femine aut de vel a possessione & contra vo-  
 luntatem talis persone aut personarum contingens  
 tunc habere per aliquas legitimas vias vel modos  
 ordinationem custodiam educationem vel gubernas-  
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 quod tunc quilibet talis persona & persone sic of-  
 fenden & existens inde convict debito modo vel at-  
 tinct peni Impzisonamenti corporum suorum subie-  
 rent & haberent per Spacium duorum Annorum  
 absq; Ballio sive manucapione vel aliter solveret  
 vel solverent talem finem pro suo vel ipsorum of-  
 fensu prout per Consilium Regie celsitudinis heredi  
 aut Successori suorum in Camera Stellata apud  
 Westm' assesserent prout in eodem Statuto plenius  
 continetur Quidam tamen A. B. de, &c. die &  
 Anno, &c. Statutum predictum minime ponderans  
 nec penam in eodem Statuto preb content aliquam  
 sit verens apud, &c. quandam B. D. unam filia-  
 rum cuiusdam C. D. nuper de, &c. defuncti infra  
 etatem sexdecim Annorum existens videlicet etatis  
 duodecim Annorum cui quidem B. idem C. D.  
 per Testamentum & ultimam voluntatem suam in-  
 scriptis dedisset & legasset ad proficuum & Marita-  
 gium ejusdem B. mille libras legalis monete Pagne  
 Britannie ac gubernationem & maritagium ejusdem  
 B. per predictum Testamentum & ultimam voluntatem  
 preb C. D. cuidam C. F. de, &c. legitimo modo  
 commissa fuit preb A. B. ultra etatem quatuordec-

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cim an  
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Ar,  
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in annoz existend p̄fati R. D. vi & armis die  
Anno & loco p̄dict invent de & a possessione p̄fati  
C. F. & contra voluntatem suam illegitime cepit  
& abduxit contra pacem, &c. ac contra formam Sta-  
tuti p̄dict, &c.

An Indictment for taking a Widow against  
her Will, that hath an Estate in Lands.

**I**ur, &c. quod A. B. de, &c. in Com p̄fati die,  
&c. vi & armis in domum mansionalem cuius-  
dam M. D. de, &c. p̄fati in Com p̄fati vidue in  
parochia de, &c. p̄fati in dicto Com intravit (que  
quidem M. D. tunc seista fuit in Dominico suo  
de Feodo de & in diversis terris & Tenementis  
in, &c. p̄dict in Com p̄fati clari annui valoris  
quingent librarum ultra omnes redditus existend)  
Immedieate postea videlicet die, &c. Anno supra-  
dicto idem A. B. p̄dict M. D. tunc ibidem in  
dicta domo sua mansionali contra voluntatem ipsius  
M. D. illegitime & felonice extraxit eripuit & ab-  
duxit ac eandem M. D. postea scilicet die, &c. An-  
no supra in Ecclesia paroch' de, &c. p̄fati in Com  
p̄fati cepit in uxorem suam ubi idem A. B. dicto  
tempore extractionis & abductionis p̄fati non clama-  
vit nec clamare potuit eandem M. D. tanquam  
Matrem suam aut tanquam nativam suam in mag-  
nam pacis dicti Domini Regis perturbationem ac  
contra formam cuiusdam Statuti in Parlamento  
Domini Henrici, &c.

Particular

*Particular Proceedings on APPEALS of  
Murder, &c. with Directions for  
Attornies, Counsellors, &c. in the  
whole Management of that Business.*

**I** Have in my Introduction to this Work, (treating of the Nature of Appeals in general,) not only given Definitions of Appeals of all kinds, but also set forth how and in what manner they are to be commenced, and by what Persons brought, &c. so that I have nothing to do in this Place, but to proceed to the several Courts, wherein Appeals are to be prosecuted, and the Methods of soliciting, managing, &c. of Causes of this Nature.

And first, Appeals may be brought by Bill in the King's Bench against any Person that is *in custodia Mareschalli*, or let to Bail; for they are the Sovereign Coroners: In the Court before Commissioners of Gaol Delivery against a Prisoner, or one let to Bail, but not to one let to Mainprize: But if one of the Appellees be absent, it must be removed into B. R. by *Certiorari*. Before the Constable and Marshal of a Felony done out of the Realm. By some Authors before Justices of Peace, Sheriff and Coroner, but it may be removed into B. R. And in Cases of Maihem, which is not capital, they may be commenced either in the King's Bench, before Commissioners of Gaol-Delivery, or before the Coroner and Sheriff. *Pulton de pace*, 15. 16, 17. 4. Co. 43. H. P. C. 179, 180.



If an Appeal be brought by Writ there must be fifteen Days between the *Teste* and the Return of the Original, that the Defendant may have time to appear in Person at *Westminster*, from any part of *England*; but if the Writ should be otherwise, the Defendant's Appearance and pleading in chief cures the Fault: And it is necessary the Defendant should appear in Person, because the Appellant must count *propria persona*, and not by Attorney; and if he does not present he may be demanded, and nonsuited; but such Nonsuit is not peremptory, because 'tis before Appearance. *Stat. 4. Annæ.*

The *Teste* of the *Capias* must bear Date the same Day with the Return of the Writ of Appeal, and every new Process must be dated on that very Day the other was determined; for the Intermission of a Day will make a Discontinuance, because by the Law the Appellant must prosecute the Defendant *recenter & instanter*, so that the Appeal must be pursued *de die in diem*; and if the Appeal be removed by *Certiorari*, and the Plaintiff will not proceed, the Defendant may have a *Scire facias* against the Plaintiff, and upon *Nihil* returned, or a *scire feci* and Default, the Defendant shall be discharged. *S. P. C. c. 70.*

An Appeal is one of the nicest Suits in the Law, and requires the greatest Exactness in the several proceedings. The Count of the Appellant must comprehend the Fact, the Year, the Day, the Hour, the Year of the King, the Town or Place where the Fact was done, and with what Weapon. *E. 1.* But *Circa horam* will do, and the exact Day of the Week is not material, for it may be proved by the Day of the Month, that the Party acted within the Year and Day. *2 Inst. 318.*

The Fact must also be particularized, whether by Wound or without Wound; if by Wound, the part of

of the Body must be set forth, the Length and Depth of the Wound (if it be of such a Quality) that it may appear to the Court it was mortal; that the Party died of the Wound, and that within a Year and Day after the giving of the same. If by a Weapon, as a violent Blow or Bruising, &c. then as many of the Circumstances before mentioned are to be set forth as agree with the Nature of the Wound; and if without Weapon, as by Strangling, &c. the Fact must be set forth in the most particular manner. *Brit. fo. 7. lib. 5. Long's Case. 2 Inst. 318.*

And one certain Weapon must be alledged in the Count, but if upon Evidence it appear that the Wound was given with any other Weapon, as a Sword, Rapier, Bill, Hatchet, &c. for a Dagger, any Weapon with which a Wound may be made, the Defendant shall be found guilty; but upon such a Count it cannot be proved that the Party was poisoned, &c. where no Weapon is used, for that doth not maintain the Count in the Appeal, it being Murder of another kind. *2 Inst. 319.*

The Statute of Gloucester requires that the Fact shall be alledged to be done in a Vill, and in the Case of *Widdrington* versus *Charlton*, Anno 11 Anna, it was so adjudged; but it has been since adjudged, that though the Fact be laid to be done in a Parith, 'tis well enough, for that shall be intended a Vill; the Case of *Wilson* and *Laws*.

If a Wound be alledged to be given at one Place, of which he languished at another, and there died, and so at the first place the Appellee *modo & forma* the other *Murdravit*; this is ill, as in case of Indictments. *Cro. Eliz. 196.*

The Omission of any Word, &c. which is material, will abate the Writ of Appeal; as for Example, An Appeal was brought, and the Addition of the

## Appeals and Murder.

III

211

Defendant was *nuper de parochia sancti Jacobi Westminster, &c.* the Defendant pleaded in Abatement that there's no Parish nam'd St. James's Westminster, though there is a Parish called St. James's within the Liberty of Westminster. And upon a Demurrer, this was held a good Plea. 3 & 4 Jac.

The Jury found that the Person slain assaulted the Appellee near the Highway, at such a Place, but admitted to say, *ad ipsum murdrandum*, and that he killed him in his own Defence; because these Words were left out, the Appellee had Judgment to forfeit his Goods. And the Statute 24 H. 8. c. 5. enacts, That if a Person is appealed for the Death of another, attempting to murder the Appellee, and is so found by Verdict, he shall forfeit neither Lands nor Goods. 1 And. 41.

If an Appeal abate by Insufficiency, as by false Caption, Misnomer, Disability of the Plaintiff, Year and Day past, or the Plaintiff not being Wife, or their, the Defendant may not be arraigned upon the Appeal, but may be indicted. And if it abate by the Plaintiff's taking Husband, or the Death of the Party, the Appellee must be arraigned at the King's Suit. H. P. C. 200.

But if the Plaintiff in Appeal by Writ be non-suited before Declaration, he shall not be arraigned at the King's Suit; for here is an Uncertainty, the Writ may be brought at the Suit of another. H. P. C. 199.

The Process of a *Capias* varies from all other Proceedings in the Law, for a Fault in it can never be amended; and though regularly after a Non-suit, you may bring the like Action again, yet a non-suit in any Appeal for Felony, is peremptory, because 'tis *in favorem vite*, but it must be after appearance in proper Person. Sid. 32. But the Party



ry may be afterwards indicted. 1 *Inst.* 139. *Cri. Eliz.* 460.

If the Writ be abated on Appeal, the Defendant cannot be arraigned upon the Count, because the Count is founded on the Writ, and where the Writ abates, the Declaration which depends thereon is determined, and the Court hath no Authority to do it. *Br. Appeal* 44. *Style. Rep.* 7.

But the Party may be arraigned at the Suit of the King upon the Declaration, where the Appeal being good, fails by the Act of God, Party, or Law; and therefore if the Plaintiff release, yet as to the King, the Defendant is not excused without a Pardon. *Staundf.* 147.

If the Plaintiff release his Appeal after he hath commenced it, the Party shall be arraigned at the King's Suit; but if such Release be given before it was commenced, then he shall not, because it was never well commenced. *Kel.* 95. &c.

In other Cases upon Appeals, if the Appellor does not prosecute, the Defendant may be arraigned at the King's Suit; because it carries a Presumption of Truth; and therefore if the Defendant be both appealed and indicted, upon a Non-prosecution of the Appeal, the Party shall be arraigned upon the Appeal, not the Indictment. 4 *E. 4. c.* 10.

In case an Appeal be brought after an Indictment found, it cannot be said malicious, because it may be reasonably intended that the Indictment thus found was the Cause of the Appeal; but if there be Insufficiency in the Indictment, which makes in Judgment of Law no Indictment, an Appeal afterwards brought may be malicious. 2 *Inst.* 384.

If the Plaintiff or Approver after an Appeal brought, confess it false, or take to his Clergy, or wave his Appeal, he may be arraigned at the King's Suit; but if the Approver after Battel joined, or in the Field confess it false, the Appellor shall be

hanged.

hanged, and the Appellee discharged. *H. P. C.* 200.  
 And if a Man bring a false Appeal of Robbery, he  
 shall forfeit his Goods to the King, for seeking the  
 Blood of the Innocent. *3 Inst.* 227. And if a  
 Keeper of Prison by Duress make any Prisoner be-  
 come an Appellor against his Will, it is Felony.  
*14 E. 3. c. 10.* But at Common Law the Appellee  
 was to be hanged by reason of the Appeal, to make  
 the Crime amount to Felony. *S. P. C.* 36.  
 If the King after Battel joined in Appeal, pardon  
 the Approver, no Arraignment may be had at the  
 Suit of the King, but the Appellee must be dischar-  
 ged. *3 Inst.* 130.

A Man became an Approver, and appealed seve-  
 ral others, and every of them joined Battel with  
 him; *Et Duellum percussum fuit cum omnibus, & pro-*  
*batore devicit omnes, &c. in Duello, quorum quatuor*  
*suspendebantur & quintus clamabat esse clericum &*  
*allocatur; & probator perdonatur:* So as the Ap-  
 prover did and ought to fight in that case, with all  
 the Appellees, if they are five or six in Number;  
 but if there be two or more Approvers against one  
 Man of one Felony, and he join Battel with them  
 all, and vanquish the first, he is acquitted against  
 the other. *Mich. 39 E. 3. Rot. 97.*

Formerly an Infant could not prosecute an Ap-  
 peal till he was of full Age, because he could not  
 wage Battel, but now he may proceed under Age;  
 and a Man above seventy may have Appeal. *2 Inst.*  
*20.*

A Husband shall not have an Appeal for the  
 Death of his Wife, but the Heir only; and where  
 an Appeal is brought against the Heir, the next  
 Heir is to prosecute as if the other were dead with-  
 out Issue. *S. P. C.* 59. 60.

If the Heir having Judgment die, his Heir may  
 have Execution: And any Person that demands  
 Justice

Justice for the Death of his Ancestor ought to make himself immediate Heir by the course of the Common Law, to the same Ancestor as was killed, otherwise his Suit shall not be received. *Br. App. 141, 144.*

But an Heir shall not have Appeal for the Death of a Man that is married, for in this case the Wife shall bring the Appeal; but if the Wife kill the Husband, there the Heir shall have an Appeal. *Staundf. 59. 1 Jones 425. 1 Leon. 326.*

A Woman brought an Appeal for the Death of her Husband; the Appellee pleaded, That she was never married, and pleaded over to the Felony and Murder, Not guilty; the Woman replied that she was lawfully married, but did not reply to the Felony; and this was adjudged no Discontinuance, because the first part of the Plea was not triable at Common Law; for if it had, she must have replied to both Parts. *Dyer 348. 3 Leon. 268. Cro. Eliz. 223, &c.*

I now come to Accessaries: If a Man appears Accessary to the Death of a Person after the Murder is committed, an Appeal may be brought within a Year and a Day after that; and if an Appeal of Murder be commenced, and hanging the Suit, and after the Year and Day is run out, one become Accessary to the Appellee, the Plaintiff shall have an Appeal against him after the Year and Day past after the Death; but it must be brought within the Year and Day after the new Felony done. *2 Inst. 320.*

There must be but one Appeal against all Principals and Accessaries; and if the Principal be pardoned before Judgment, or hath his Clergy, the Accessary cannot be tried, because before Judgment given it doth not judicially appear that there was any Principal; and where there is no Principal there cannot be an Accessary: But if the Principal

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be pardoned after Attainder, it is otherwise. 4 Rep.

43. Moor 461.

And both Principal and Accessaries are generally charged alike 'till you come to the Count; but if the Defendants in an Appeal brought by Bill where some are Principals, and some Accessaries, make Default, the Appellant before the Exigent ought to declare, to the end it may be known who are Principals, and who Accessaries, and to continue the Plea against the Accessaries, until the Principals are attainted. 2 Inst. 183.

The Attainder of the Principal must be in the same Suit with the Accessary; so that if the Principal be attainted of Murder at the King's Suit, and after an Appeal is brought against Principal and Accessary at the Suit of the Party, if the Principal plead the former Attainder, the Accessary shall not be put to answer. 7 H. 4. c. 47. 9 H. 7. 19.

If an Appeal be brought against two as Principals, and against another as Accessary, both of them must be attainted before the Accessary be outlawed; and if one of the Principals be found Not Guilty, the Accessary is discharged; for the Plaintiff made him Accessary to two, and therefore he cannot be found Accessary to one. But where there are several Principals, the Appellant may have his Appeal against any one of them, and make the Accessary accessory to him only, for the Felony is several; but the Appellant cannot have several Appeals of one Death. 30 Pl. Com. 99.

If two Persons are appealed of Felony one as Principal, and the other as Accessary, and both of them plead Not guilty, &c. and the Jury acquits the Principal, in this case the Accessary is acquitted, and shall recover Damages against the Appellant, or may have his Writ of Conspiracy. 3 H. 6. c. 2. But if a Man be appealed as Accessary

cessary to two Principals, and one of them only is acquitted, the Appellee shall not have Damages. 2 Inst. 385.

If an Appeal of Murder is brought against one *simul cum* five other Persons as Principals, and it is found that one did the Act in his own Defence, this is an Acquittal of all, but yet that one cannot have Damages. The Case of the Wife of one Coppleson who brought an Appeal against Stowel and five of his Servants as Principals, for the Murder of her Husband: He pleaded Not guilty, and Process was continued against the other Five. Pasch. 15 Eliz.

If the Plaintiff in an Appeal be nonsuited, and the Defendant is arraigned at the Suit of the King, and acquitted, he shall recover Damages, for the words of the Act, 33 H. 6. are, *vel ad sectam Appellantis, vel Domini Regis*; but this Suit of the King is intended upon the Appeal after Nonsuit, and an Acquittal upon an Indictment is not within this Statute. 5 Mod. 394. 2 Inst. 385. If the Jury give too small Damages, the Plaintiff may have an Original Writ of Abatement, and count to greater Damages. 8 H. 6. c. 10.

Though there can be but one Appeal against Principal and Accessary, so that if an Appeal be against A. and he is attaint or acquit, or the Plaintiff Nonsuited, he cannot have another Appeal against B. yet where there is an Accessary in one County to Felony in another, there several Appeals may be brought against Principal and Accessaries. 4 Co. Wait's Case.

And if the Appellee be in a foreign County, then the Judges in B. R. or Itinerant Judges before whom the Appeal is, may grant Process, and the Justice of Gaol-Delivery may issue out Process into a Foreign County, as well to apprehend the Appellee as a *Venire Facias* to try the Issue. S. P. C. 146.

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## Appeals and Murder.

117

If Principals are attainted in *Berkshire*, and an Appeal is brought in the same County, against the Accessories, setting forth that they *apud London* did incite, &c. the Principal; this Appeal is ill brought in *Berkshire*, because the Procuring inciting, &c. was done in *London*; and the Appeal ought to be brought there. *Dyer* 238.

An Appeal of Murder by the Common Law is to be brought in the County where the Fact is committed; and if a Stroke be in one County, and Death in another, the Appeal may be brought in the County where the Person died; by the Statute 2 & 3 E. 6. *Cro. Can.* 247.

In an Appeal of Death, the Defendant cannot justify *se defendendo*, but must plead Not guilty, and the Jury are to find the Special Matter, as the manner is on Indictments. And if the Writ of Appeal doth comprehend the Special Matter, (*viz.*) that the Ancestor, &c. was slain *se Defendendo*, or by Misadventure, the Writ shall abate; for an Appeal lieth not of such a Killing, because the end of the Appeal is that the Appellee may have Judgment of Death, *viz.* Death for Death. *1 Bulst.* 141. *2 Inst.* 317. And after Not guilty pleaded, the Appellee cannot give in Evidence *se Defendendo*, &c. *2 Inst.*

Evidence given for or against the Defendant in an Indictment is no Evidence in an Appeal, and the Court would not suffer the Witnesses for the Appellee to depose what was given in Evidence upon an Indictment, by a Witness then dead. *Sid.* 310.

The Defendants cannot imparl, but the Court may be adjourn'd by a *Dies Datus* until such a Day, and when they appear, and Issue is joined, the Appellant must pray a *Venire facias*; and if there are several Defendants, and being all outlawed, they all



of them join in a Writ of Error, and one alone appears, the Outlawry shall not be reversed, although there is a manifest Error in the Proceedings, without the Appearance of all. *Bract.*

An Appeal by Bill may be removed by *Certiorari* directed to the Sheriff and Coroner; but if the *Certiorari* be directed to the Sheriff only in case of Appeal or Indictment of Death, it is not sufficient to remove the Record, because he is not Judge of the Cause. *2 Inst.* 176.

By our ancient Laws several Exceptions were allowed to the Defendant in Appeal of Death, as the Plaintiff's not being present at the Blow given, &c. *Glanv. lib. ult. c. 1. 4. 5.* And *Bracton* observes, that in *Appello debet fieri mentio de anno, de loco, de die, de hora, loqui etiam oportet de visu & auditu.* *Bract. lib. 3. fo. 138.*

And a Man may plead in Bar, a second Writ of Appeal purchased pending a former Writ; Nonsuit in a former Appeal after Declaration; so of a *Retrahit*; that the Plaintiff brought an Appeal of the same Felony against another, who was acquitted or attainted at his Suit; a Release to the Defendant, of all manner of Appeals, Actions criminal, &c. but in case of a Release pleaded, he shall not plead over to the Felony, as he may do in other cases of Pleading in Bar. *H. P. C.* 189, 190.

The Defendant may plead any thing whereby it appears the Plaintiff is not intitled to the Appeal: *Misnomer* is a good Plea; False Latin, &c. in the Writ, will abate it, *Nul tiel in rerum Natura* of one of the Defendants, abates *vers tous*, &c. And where a Writ is brought by a Brother and Heir, it shall abate, if he is so named after the *alias dictus*, and not in the Substance of the Writ. *H. P. C.* 189, *Dyer* 50.

At Common Law, if the Plaintiff in Appeal of Death had not made fresh Suit, he shou'd not have

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maintained his Appeal; for Fresh Suit (*recens infectio*) is a speedy and continual Pursuit of the Felon for his Apprehension and Conviction; and that for two several Purposes, one to have Restitution of the Goods, as in Appeal of Robbery; and the other, for Maintenance of the Appeal it self, as in case of Death where no Restitution of Goods is to be had, but Punishment of the Offender by Death: And *Bracton* tells us what this Fresh Suit was in his third Book. *Qui appellare voluerit & bene sequi, debet ille cui injuriatum erit, statim quam cito poterit butesum levare, & cum butesio ire ad villas vicinas & propinquiores, & ibi manifestare scelera & injurias perpetratas, & continuo accedere debet ad Servientes Domini Regis, sic inveniri possint, & deinde ad Coronatores, & sic inde sine intervallo ad proximum Comitatum, &c. Bract. lib. 3. fo. 139.*

But the Appellee could not take Advantage of the want of Fresh Suit, unless he had pleaded it. And in an Appeal of Robbery, if the Defendant did not plead in Abatement for want of Fresh Suit, but was thereupon convicted, yet the Appellant could not have Restitution, unless the Jury did find the Fresh Suit. For Neglect of Fresh Suit, the Prosecution devolves to the King by way of Indictment, as it did where the Appellant was nonsuited, or released either before or after Attainder; in which case the King might proceed on the Appeal, and have Execution upon the Indictment: But the Year and Day given to the Appellant to bring his Appeal by the Statute of *Gloucester*, is instead of Fresh Suit. *Kel. 96, 97.*

In an Appeal of Murder, the Jury may find the Defendant guilty of Manslaughter, or not, as they shall see Cause; but if they find him guilty of Manslaughter, that shall be a good Plea to an Indictment for the same Murder. *4 Rep. 45.*

And the Jury may find the Appellee not guilty generally, or not guilty of Murder, and guilty of Manslaughter, as they did in the case of *Pennyn and Corbet*. *Cro. Eliz.* 464. But such a Finding is more than needful, and therefore it seems to be no good Bar to an Indictment, commenced afterwards for the same Fact. *Cro. Eliz.* 276, &c.

But if the Defendant be convicted of Manslaughter, on an Indictment, and is allowed the Benefit of Clergy, and read as a Clerk, it is a good Bar to Appeal of Murder. Resolved in *Lisle's Case*, *Kel.* 94. And the Court ought to grant the Clergy, although the Appeal be commenced before the Allowance of it. 3 *Inst.* 131. Acquittal upon an Indictment is likewise a good Bar to an Appeal in Murder.

If upon an Indictment of Murder the Party is convicted of Manslaughter, and immediately after at the same Gaol-Delivery, the Wife or Heir of the Deceased shall put in an Appeal, the Convict is to be called to Judgment upon the Indictment, without taking notice of the subsequent Appeal, which cannot obstruct it, and to be allowed his Clergy, before he be put to answer the Appeal, and then he may plead the Conviction and Clergy in Bar: And a Man thus indicted and found guilty of Manslaughter, or acquitted, may plead his Acquittal or Conviction, in Bar of a Coroner's Inquest at the same Sessions, though the Course now used in such a Case, is to charge the Jury with both Inquisitions at the same time. *Kel.* 108.

If the Conviction be before Plea pleaded to the Appeal, it is sufficient: But *Anno 18 Car. 2.* a Man was tried in *Kent* before the Lord Chief Justice *Bridgeman* for a Murder, and convicted of Manslaughter, and he refused him the Benefit of Clergy, upon which an Appeal was brought in the King's

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King's Bench, and the Party pleaded Not guilty, and was tried again. *Torbil's Case, &c.*

If one be indicted of Murder, and thereupon convicted of Manslaughter, and the Court refuse to call him to Judgment, but continue him over to another Gaol delivery upon a *Curia advisare vale de Judio*, &c. If an Appeal of Murder be brought, he may plead his Conviction, and his being a Clerk, and ready to read if the Court would have allowed him. *Kel. 107.*

When the Indictment and Conviction of Manslaughter and Appeal are removed into B. R. the Court is bound *ex officio* to call the Party to Judgment, and if he pray his Clergy, to allow it him, and order him to be burnt in the Hand; and the King may pardon the burning in the Hand, in an Appeal, it being not so much a part of the Judgment or Punishment, as a Mark to signify that the Offender shall not have his Clergy again; though formerly it was held otherwise, that the Crown could not pardon it, because it was at the Party's Suit, and not the King's. *5 Rep. 50. Cro. Eliz. 64.*

The Defendant in an Appeal, ought not to be detained in Prison, or to live under the Infamy of a Murderer, longer than there is Cause. *2 Inst. 387.* And where Persons are indicted for Murder, and acquitted, if an Appeal is intended to be brought, they are to be bailed till the Year and Day be past, allow'd for bringing the Appeal, by Statute *3 H. 7. c. 1.* But if a Man be indicted of Murder, and is found guilty of Manslaughter, or *se Defendendo*, he is to be immediately discharged. *Kel. 25.*

In many Cases a Conviction, and having Clergy, conduces more to the Safety of a Man than an Acquittal; for if the Prisoner were convicted, and had his Clergy, he was thereby discharged of all Crimes committed

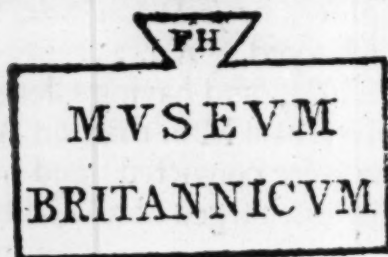
committed before Clergy had, until 8 *Elix.* But if he had been acquitted, he was liable to answer for any others committed before his Acquittal. *Dyer* 214. *Kel.* 103.

There ought to be no Delay in prosecuting an Appeal; for in case of dilatory Proceedings by the Statute 3 *H. 7. c. 1.* an Indictment may be tried without staying for the Appeal, otherwise publick Justice would be neglected. But notwithstanding the Proceedings on such Indictment, and any Attainder or Acquittal therein, the Benefit of the Appeal is saved to the Party, if the Clergy was not had; which shews that before that Statute, if the Clergy was had, it would be a Bar to the Appeal, as it is at this time. *Kel. Rep.* 95.

An Appeal of Murder, as I have already observed, must be brought within a Year and Day, (accounting the whole Year according to the Kalendar Months) after the Death of the Party: Formerly it was a Year and Day after the Blow given, or Fact committed. But for Robbery the Appeal may be brought several Years after. 4 *Leon.* 16. 2 *Inst.* 320.

Judgment in Appeal of Rape is Life and Member. And anciently where Judgment was given in Appeal of Murder, the Blood of the Party slain were to draw the Defendant to Execution. 3 *Inst.* 131.

In Appeal of Death, Robbery, Rape, &c. the King cannot pardon the Defendant, the Appeal being at the Suit of the Party. 3 *Inst.* 237.



PRE-

# PRECEDENTS

OF

*Pleadings and Proceedings,*

In the whole Course of

# A P P E A L S.

The Pleadings perused and approved by Sir *Peter King*, present Lord Chief Justice of the Common Pleas, and Sir *Robert Eyre*, now one of the Justices of the King's Bench, and other Eminent Councils.

*Cotton & al'*  
ad. Sect. } Appell' a Rotulo.  
*Fox.*

Adhuc de Termino Paschæ *J. Holt* Mil'. 4 Ann.

Salop' ff. **M**emozand quod ad General Delib-  
berationem Gaol Dom Reg' Comd  
Salop' tenet pro Comd Salop' ptes apud Salop' in  
Com ptes die Lune duodecimo die Martii Ann.  
Reg' Dom Ann. dei Gra Angl. Scot. Fran. &  
Hiber.



Hibern. Regine fidei Defensor, &c. quarto coram  
 Johan. Powel **Magist. et Justic. dict. Dom. Reg.**  
 p<sup>re</sup>lita cor<sup>am</sup> ipsa Regina tenend<sup>um</sup> assign<sup>at</sup> & Hen. Gould  
**Magist. et Justic. dict. Dom. Reg.** ad p<sup>re</sup>lita cor<sup>am</sup>  
 ipsa Regina tenend<sup>um</sup> assign<sup>at</sup> Justic<sup>um</sup> ipsius Dom<sup>ini</sup>  
 Reg<sup>is</sup> ad Gaol suam ibidem de p<sup>re</sup>sonar<sup>um</sup> in eadem  
 existend<sup>um</sup> deliberand<sup>um</sup> assign<sup>at</sup>, &c. Johannes Fox filius  
 heres Thomæ Fox defuncti in propria persona con  
 per Willam. sive Breve instant appellabat Richar  
 dum Lowe nuper de London Apothecary & Tho  
 mam Cotton nuper de Newport in Com<sup>itatu</sup> Salop  
 Gen<sup>eralem</sup> in Custod<sup>iam</sup> Thomæ Child Ar<sup>chiepiscopi</sup> Vic<sup>arii</sup> Com<sup>itatus</sup> p<sup>re</sup>dicti  
 ad Warram ibidem ducti in propriis personis suis de  
 morte p<sup>re</sup>dicti Thomæ Fox patri suis Et sunt p<sup>re</sup>dicti  
 ad p<sup>ro</sup>sequend<sup>um</sup> illam Willam suam scilicet Johan  
 Doe & Richardus Roe que quidam Willa sequitur  
 in hec verba.

Salop<sup>ie</sup> ff. **Johannes Fox filius & Heres Tho. Fox**  
 nuper de Muxton in Com<sup>itatu</sup> Salop<sup>ie</sup> in  
 propria persona sua instant appellat Richardum  
 Lowe nuper de London Apothecary & Thomam  
 Cotton nuper de Newport in Com<sup>itatu</sup> Salop<sup>ie</sup> in Custod<sup>iam</sup>  
 Thomæ Child Ar<sup>chiepiscopi</sup> Vic<sup>arii</sup> Com<sup>itatus</sup> Salop<sup>ie</sup> p<sup>re</sup>dicti existend<sup>um</sup>  
 Warram ducti in propriis personis de morte p<sup>re</sup>dicti  
 Tho. Fox patris sui p<sup>re</sup>dicti de eo quod p<sup>re</sup>dicti Richardus  
 Lowe & Tho. Cotton Deum p<sup>re</sup> oculis suis non  
 habent sed instigatione Diabolica moti & seducti vi  
 cessimo secundo die Octob<sup>ris</sup> Anno Reg<sup>is</sup> Dom<sup>ini</sup> Ann<sup>no</sup>  
 Dei Gra<sup>tiæ</sup> Angl. Scot. Fran. & Hiber. Regine fidei  
 Defensor, &c. vi & armis, &c. apud parochiam  
 de Donnington in Com<sup>itatu</sup> Salop<sup>ie</sup> p<sup>re</sup>dicti, viz. in que  
 dam loco vocat<sup>ur</sup> Killall Heath in alta Regia via  
 ibidem in & super p<sup>re</sup>dicti Thomam Fox in pace De  
 & dict<sup>um</sup> Dom<sup>ini</sup> Reg<sup>is</sup> aduinc & ibidem existend<sup>um</sup> felo  
 nice voluntarie & ex malicia sua p<sup>re</sup>cogitata in  
 sult fecer<sup>unt</sup> ac p<sup>re</sup>dicti Richardus Lowe quandam Scler  
 periam

etiam (Anglice a Pistol) valori decem solidis ad-  
 unc & ibidem onerat (Anglice charged) cum  
 pulvere Bombardico (Anglice Gunpowder) &  
 Globulo plumbeo (Anglice a Leaden Bullet) quam  
 Sclopetam idem Richardus Lowe in manu sua  
 adunc & ibidem felonice voluntarie & ex ma-  
 litia sua premeditata direxit sagittavit & erone-  
 avit ac cum Globulo plumbeo preb vi pulveris  
 Bombardici preb ex Sclopete preb sicut prefert  
 direct sagittat & emisit prefat Thomam Fox in &  
 super dextram partem pector ipsius Thomæ Fox  
 prope dextrum humerum ejusdem Thomæ Fox ad-  
 unc & ibidem felonice voluntarie & ex malitia sua  
 premeditata percussit pupugit & contudit & adunc & ibi-  
 dem percussione punctione & contusione p̄d cum  
 Globulo preb sic ut prefert direct sagittat & emisit  
 insuper dictam dextram partem pectoris ipsius  
 Thomæ Fox prope dextrum humerum ejusdem  
 Thomæ Fox felonice voluntarie & ex malitia sua  
 premeditata dedit eidem Thomæ Fox unum vulnus  
 mortale (Anglice one Mortal Wound) latitudine  
 unius pollicis longitudine unius pollicis & profundis  
 sex pollicis de quo quidem vulnere mortali is-  
 dem Thomas Fox adunc & ibidem instant obiit  
 preb Thomas Cotton eodem viceffimo secundo  
 die Octob. eodem Anno apud paroch de Donning-  
 ton preb in loco preb & in alta Reg' via preb ibi-  
 dem felonice voluntarie & ex malitia sua premed-  
 itata fuit presens abertans assistens auxilians con-  
 spirans & manutenens preb Richardum Lowe ad  
 feloniam & Murdum preb modo & forma preb  
 faciend & perpetrand Et sic preb Richardus Lowe  
 & Thomas Cotton prefat Thomam Fox modo &  
 forma preb felonice voluntar & ex malitia sua pre-  
 meditata interfecerunt & Murdaverunt contra pa-  
 cem dicte Dom' Reg' nunc Coron & dignitat  
 suas,

suas, &c. Et quam cito libem Felones Feloniam  
 Mordum p̄d̄ fecissent fugier' Et qd Johannes Fox  
 filius & heres dicti Thome Fox recens insertu  
 fuit eisdem felones de Willa in Willam usque qua  
 tuor Willas propinquiores & ulterius quousque, &c.  
 Et si p̄d̄ Rich. Lowe & Thomas Cotton feloniam  
 & murdum p̄d̄ sic ut prefert fact' dedicere volun  
 tunc p̄d̄ Johannes Fox parat est feloniam & Mur  
 dum p̄d̄ versus ipsos Rich. Lowe & Thomas  
 Cotton probare prout Cur' dicte Domine Regine  
 nunc hic Cons' invenit pleg' de prosequens Appellam  
 ill' videt Johannem Doe & Rich. Rowe, &c.

Mich. Anno Annæ Reg' Angliæ, &c. Quarto

Lowe & al. }  
 ads'. Fox. }

**E**t p̄d̄ Richardus Lowe & Thomas Cotton in  
 propr' Personā veni & defendi vim & injuriā  
 quando, &c. Et quoad omne Feloniam & murdum  
 & quicquid, &c. dicunt quod p̄d̄ Johannes Fox Ap  
 pell' suū p̄d̄ de morte p̄d̄ versus eos here se  
 manutenerē non debet quia dicunt qd ad Genral Coat  
 deliberationē Domine Regine nunc Comd Salop  
 tenet pro eodem Comd apud Wil' Salop in Comd  
 p̄d̄ die Lune duodecimo die Martii Anno Regni  
 Domine Regine nunc quarto coram Johanne Powel  
 uno Justic' dicte Regine ad p̄lita in Cur' ipsius  
 Domine Regine coram ip̄ Regina tenend' Assignat  
 & Hen' Gould Milit. nū al. Justic' ejusdem Do  
 mine Regine ad p̄lita in Cur' ipsius Domine  
 Regine coram ipsa Regina tenend' etiam Assignat  
 Justic' dicte Domine Regine ad Gaolam suam ibidē  
 de Prisonar' in eadem existend' deliberand' p' Literas  
 Patentes ipsius Domine Regine sub magno sigil-



lo suo Anglie sigillat gerend dat apud Westm' die,  
 11. Anno Regni sui, &c. p Sacram Roberti Cor-  
 bet Bar' Edri' Acton Bar' Roberti Owen Ar'  
 Caroli Walcot Ar' Roberti Floyer Ar' Walter  
 Warring Ar' Edri' Cresset Ar' Roberti Piggot  
 Ar' Thome Hunt Ar' Roberti Moor Ar' Barth'  
 Beale Ar' Williemi Whitemore Ar' & Thome Ac-  
 ton probor & legalid hominum ejusdem Com' ad-  
 tunc & ibid in eadem Cur Jura & onerat ad-  
 inquirend pro dicta Domina Regina & pro Corpore  
 Com' illius presentat existit qd dictus Richardus  
 Lowe, per nomen Richardi Lowe nuper de Lon-  
 don Apothecary ac p'ed Thomas Cotton per Ro-  
 men Thome Cotton nuper de Newport in Com'  
 Salop Gen Deum p' oculis suis non habentes  
 sed instigatione Diabolica moti & seducti dicto vices-  
 simo secundo die Octobris Anno tertio supdict vi  
 & armis, &c. apud Kilsall Heath p'ed in paroch  
 de Donnington p'ed in dict Com' Salop in alta  
 Regia ibid in & super p'ed Thomam Fox Ar'  
 in pace Dei & dicte Domine Regine nunc adtunc  
 & ibidem existend felonice voluntarie & ex malicia  
 sua p'ecogitata insult fecer quodq p'ed Richardus  
 Lowe quandam Sclopetam (Anglice a Pistol) de  
 ferro & Chalib' confect valor decem solid cid pul-  
 vere Bombardico & Globulo plumbeo adtunc &  
 ibidem ondat quam idem Richardus Lowe in manu  
 sua dextra sicut p'efert ondat adtunc & ibidem habuit  
 & tenuit versus & ad p'efat Thomam Fox adtunc  
 & ibidem felonice voluntar & ex malicia sua p'ec-  
 cogitata sagittavit & exondavit (Anglice did shoot off  
 and discharge) Et cum Globulo plumbeo vi pulberis  
 Bombardici p'ed ex Sclopete p'ed sic ut p'efert  
 sagitat & emiss' p'efat Thomam Fox in & super  
 dextram partem pectoris ipsius Thomæ Fox prope  
 pectus huncid ejusdem Thomæ Fox adtunc & ibid  
 felonice voluntarie & ex malicia sua p'ecogitata  
 percussit

percutit & pupugit dans eidem Thome Fox adunc  
 & ibidem Globulo plumbeo p[re]s sic ut p[re]fert  
 g[ra]t & emittit in & super dictam dextram partem  
 pectoris ipsius Thome Fox prope dextrum  
 m[em]brum eiusdem Thome Fox ad vultus Mortale  
 (Anglice mortal Wound) latitudine Duor[um] polli-  
 cid[um] & profunditate sex pollicid[um] Et q[uo]d de mortali  
 vulnere illo idem Thomas Fox adunc & ibidem  
 instanter obiit Et q[uo]d p[re]s Thomas Cotton eodem  
 vicesimo secundo die Octobr[is] Anno, &c. supradic-  
 ti & armis, &c. apud Killfall Heath p[re]s in  
 paroch[ia] de Dohmington p[re]s in Com[itu] Salop[ie] p[re]s  
 felonice voluntarie & ex malicia sua p[re]cogita-  
 fuit p[re]sens abettans confortans & manutenens  
 p[re]s Richardum Lowe ad feloniam & murdrum p[re]s  
 modo & forma p[re]s faciens & perpetrans Et p[re]s  
 p[re]s super Sacramentum suum p[re]s tunc dixer[unt]  
 p[re]s Richardus Lowe & Thomas Cotton p[re]s  
 Thomam Fox modo & forma p[re]s felonice voluntarie  
 & ex malicia sua p[re]cogitata interfecer[unt] & murtheraver[unt]  
 contra pacem dicte Domine Regine nunc Co[m]m[un]i  
 Dignitat[is] suas, &c. Et superinde ad istam eun-  
 General[em] Co[m]m[un]i deliberation[em] Com[itu] Salop[ie] p[re]s  
 apud Salop p[re]s in & pro Com[itu] Salop[ie] dicto die lun-  
 duodecimo die Martii Anno quarto sup[er] co[m]m[un]i  
 p[re]satis Justic[is] ad Gaol p[re]s de p[re]sonar[um] in eadem  
 existens deliberans Assign[avit] ut p[re]fert vend[er]e p[re]s  
 Richardus Lowe & Thomas Cotton sub Custodia  
 Thomae Child Ar[chie]p[iscop]i adunc tunc Com[itu] Salop[ie] p[re]s  
 in cusus Custod[um] ex causa p[re]s p[re]s ad Gaol  
 Com[itu] Salop[ie] ipsi separaliter comiss[um] fuisse ad p[re]s  
 eiusdem Cur[ie] ibidem tunc in p[ro]p[ri]is Person[is] sub  
 qui sepa[ra]t[im] adunc & ibidem comiss[um] fuer[unt] p[re]satis  
 &c. Et Statim p[er] eandem Cur[iam] de p[re]missis in p[re]s  
 dictament[um] p[re]s specificat eis superius impo[si]t[um] separa-  
 liter interrogat[um] fuer[unt] qualiter voluer[unt] acquietari.  
 superinde idem Richardus Lowe & Thomas

Cotton adtunc & ibidem in eadem Cur' separalit' ad  
 Indictament' illi. placitaverunt qd ipsi in nullo fuer'  
 inde Culpab. nec eor' alter fuit inde Cul. Et inde  
 de bono & malo separalit' adtunc & ibidem posuer' &  
 alceruter eor' se super patriam posuit Ideo immedi-  
 ate adtunc & ibidem ven' inde Jur', &c. coram eisdem  
 Justic', &c. Et Jur' iure illi per prefat' vic' adin-  
 de impanellat' Sclt Johannes Powel Ar' Will. Owen  
 Ar' Tho. Grant Ar' Edw. Bunn Ar' Tho. Cole Ar'  
 Rich. Walter Ar' Obadiah Dodd gen' Will. Russel,  
 &c. per eandem Cur' exact' adtunc & ibid' in eas-  
 dem Cur' venissent Et superinde fact' in eadem  
 Cur' publica Proclamatione pro dicta Domina Re-  
 gina prout moris est qd si aliquis esset qui prefat'  
 Justic' Servien' ad legem sibe Attoz' esusdem  
 Domine Regine General. aut Jurator' p'ed' de  
 premissis p'ed' informare vellet veniret & audiretur  
 Et superinde Will. Bridges Ar' Consiliat' ad legem  
 ad ill. faciend' in eadem Cur' obtulit super quo  
 ibidem Justic' processer' adtunc & ibid' ad capcon'  
 Jure p'ed' per Jur' p'ed' in eadem Cur' adtunc  
 comparen' Ac Jur' illi ad veritat' de & super premiss'  
 dicend' per eandem Cur' adtunc & ibid' electi triat'  
 Jurat' exist. adtunc & ibid' dixer' super Sacram'  
 suum qd p'ed' Rich. Lowe & Tho. Cotton non fuer'  
 Culpab. nec eor' alter fuit Culp. de mardo p'ed' eis  
 eor' utriq' superius impozt' sed idem Jur' su-  
 per Sacram' suum p'ed' ultius dixer' qd p'ed' Rich.  
 Lowe & Tho. Cotton fuer' Culp. & eor' alt' Culp.  
 de Homicidio & felonica interfectione p'd Thomæ  
 Fox prout per Indictamentum superius supposit'  
 & superinde statim per eandem Cur' separalit'  
 questu' fuit de p'ed' Rich. Lowe & Tho. Cotton si  
 quid pro se fuer' aut dicere sciber' quare eas Cur' ad  
 indicin' & Execution' de eis & de & super veris p'ed'  
 proceder' non debuit super quo iidem Richardus Low  
 Thomas Cotton adtunc & ibid' eidem Cur' dixer' qd  
 ipsi



ipsi fuer' Clerici & eor' alit' fuit Clericus & adtunc &  
 ibid' & ante exhibico' Wille de Appello p'ed' separa-  
 lit' petier' beneficiu' Clerical' eis separalit' in ea parte  
 allocari & per eand' Cur' adtunc & ibidem tradito eisdem  
 Richardo Lowe & Thomæ Cotton separalit' libr' iidem  
 Richardus Lowe & Thomas Cotton adtunc & ibidem  
 in ead' Cur' & ante exhibico' Wille de Appel legebat  
 ut Cl'ici & eor' uterque legebat Ideo per eand' Cur'  
 adtunc & ibidem & ante exhibico' Wille de Appel  
 p'ed' conl' fuit qd' p'ed' Richardus Lowe & Tho. Cotton  
 in eor' manu sua leva cauterizarent & eor' uterque  
 in manu sua leva cauterizaretur & immediate post  
 iudiciu' ill. idem Johannes Fox er'uit in eadem Cur'  
 Willam suam Appelli p'ed' & non antea qd' quid-  
 dem Iudiciu' postea Scit' termino, &c. Anno Regni  
 Domine Regine nunc quarto Etis de Causis eandem  
 Dominam Reginam in ea parte moven' in de ho legi  
 Cur' in Cur' ipsius Domine Regine coram ipsa  
 Regina hic Scit' apud &c. in Com' Middlesex fuit  
 modo in hac Cur' reman' non reversat seu adnulla  
 Et hoc parati sunt verificare per Reco'rd ill. unde pe-  
 tunt iudiciu' si p'ed' Johann. Fox Appellu' suum p'ed'  
 de No'te p'ed' here seu manutenere debeat, &c.  
 Cum hoc iidem Richardus Lowe, & Tho. Cotton ve-  
 rificare volunt qd' iidem Rich. Lowe & Tho. Cotton  
 modo appellat. &c. Et p'ed' Rich. Lowe & Tho.  
 Cotton superius Indictat' in modo & forma p'ed'  
 Condict' sunt eadem due person' & non al' neq'  
 diverse & quod p'ed' Thomas Fox in Indictamen-  
 to notat est un' & ead' persona & non al. neque diversi  
 quodque p'ed' vulnus mortale in Appello p'emen-  
 tionat' & vulnus mortale p'ed' in Indict' p'ed'  
 Specificat' sunt un' & idem vulnus & non al' neq'  
 vers' Et petit de p'ed' allocaco', &c. Et quod  
 felon' & murtu' p'ed' in Appello p'ed' Specificat'  
 iidem Richardus Lowe & Thomas Cotton dicunt  
 ipsi in nullo sunt inde Culpabiles nec eor' al'

Culp  
 patria  
 & Th  
 ad pl  
 caret  
 Fox r  
 diem q  
 p'ox' s  
 ad rep  
 Regina  
 & Tho  
 Johann  
 act non  
 Appell  
 Thoma  
 qd' p'ed  
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Fox

versu

Cotton &amp;

E in  
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 Et quicq  
 Fox Appe  
 Fox versu  
 Cotton ha  
 unt qd' a  
 tion' Dom  
 Com' apul  
 decimo die  
 Regine An

Culpabilis Et inde de bono & malo ponunt se super patriam, &c. Et super hoc p̄d Richardus Lowe & Thomas Cotton petunt quod p̄d Johannes Fox ad placitum ip̄s Richardi & Thomæ p̄d Replicaret & superinde dies datus est p̄d Johanni Fox coram Domina Regina apud Westm̄ usque diem Mercur̄ prox̄ post Octab̄ Sancte Trin̄ extunc prox̄ sequend̄ ad idem placit̄ p̄d interloquend̄ & tunc ad replicand̄, &c. Ad quem diem coram Domina Regina apud Westm̄ ven̄ p̄d Richardus Lowe & Thomas Cotton in propriis personis suis Et p̄d Johannes Fox licet ad eundem diem solempnit̄ ex-act non venit ad placitum Replicar̄ nec est Willam Appelli p̄d versus p̄d Richardum Lowe & Thomam Cotton ulterius pros̄ Ideo considerat̄ est qđ p̄dict Johannes Fox Nihil capiat p̄ Willam Appell̄ suam p̄dictam sed pro clamore suo sit inde in mis̄, &c. Et qđ p̄dicti Richardus Lowe & Thomas Cotton eant inde sine die, &c.

Fox

versus

Cotton & al̄

} Placita exait̄ cu' Offic' Cop'

Et p̄dict Richardus Lowe & Thomas Cotton in propr̄ person̄ suis ven̄ & defend̄ vim & insur̄ quando, &c. Et omnem felon̄ & murdum Et quicquid, &c. Et dicunt qđ p̄dict Johannes Fox Appell̄ suum p̄dict de morte p̄dict Thome Fox versus eisdem Richardum Lowe & Thomam Cotton habere seu manutenere non debet quia dicunt qđ alias scilicet ad Generat̄ Saol̄ deliberat̄ Dom̄ Reḡ nunc Com̄ Salop̄ ten̄ pro eodem Com̄ apud Salop̄ in Com̄ p̄dict die lune duos decimo die Martii Anno Reḡ Dom̄ Annæ nunc Regine Angl̄, &c. quarto cor Johanne Powel Pil

und Justic' dicte Dom' Reg' ad placita cor' ipsa Reg'  
 tenend' assign', & Henrico Gould milite und at Ju-  
 stic' ejusdem Dom' Regine ad placita cor' ipsa Reg'  
 tenend' assign' Justic' dicte Dom' Reg' ad Gaolam  
 suam Com' Salop' predict' de prisonar' in eadem  
 exist' deliberand' assign' per Sacram Roberti Cor-  
 bet Barr' Edwardi Acton Barr' Rogeri Owen Ar'  
 Caroli Walcot Ar' Roberti Floyd Ar' Walt' War-  
 ring Ar' Edwardi Cresset Ar' Roberti Piggott Ar'  
 Thomæ Hunt Ar' Roberti More Ar' Barthol' Beale  
 Ar' Williemi Whitmore Ar' Thomæ Acton Ar' Ro-  
 berti Clive Ar' Johannis Hill Ar' & Edwardi Owen  
 Ar' probor' & legalium hominum Com' predict' ade-  
 tunc & ibidem Jurat' & onerat' ad Inquirend' pro dicta  
 Dom' Reg' & pro Corpore Com' predict' presentat'  
 fuit qd' Richardus Lowe nuper de London Apothecary  
 & Thomas Cotton nuper de Newport in  
 Com' Salop' Gen' Deum pre oculis suis non ha-  
 bentes sed Instigatione diabolica moti & seducti vi-  
 cessimo secundo die Martij Anno Reg' Dom'  
 Annæ dei Gra' Angl. Scot. Fran. & Hibern. Reg'  
 fidei defensoris, &c. tertio vi & armis, &c. apud  
 Killall Heath in parochia de Donnington in Com'  
 Salop' in alta Regia via ibidem in & super quen-  
 dam Thomam Fox Ar' in pace Dei & dicte Dom'  
 Reg' nunc adtunc & ibidem exist' felonice volun-  
 tarie & ex malicia sua precogitata insult' fecerunt &  
 qd' predict' Richardus Lowe quandam Sclopetam  
 (Anglice a Pistol) de Ferro & Calybe confect' valoris  
 decem solidis cum pulvere Bombardico & Globulo  
 plumbeo adtunc & ibid' onerat' quam idem Richardus  
 Lowe in manu sua dextra sic ut pferet onerat' adtunc  
 ibidem habuit & tenuit in versus & ad prefat' Thomam  
 Fox adtunc & ibidem Felonice voluntarie & ex malicia  
 sua precogitata sagittavit & eroneravit (Anglice die  
 shoot off and discharge) Et cum globulo plumbeo

pres bi p  
 sic ut p  
 in & sup  
 Fox p  
 adtunc &  
 sua p  
 Thomæ  
 pres sic  
 tam par  
 vulnus m  
 tudinis d  
 de quo q  
 adtunc &  
 Cotton e  
 tertio sup  
 pres in  
 pres Fel  
 cata fuit  
 manutene  
 p  
 perpetr  
 pres dire  
 Cotton p  
 lonice vol  
 feret & p  
 munc Co  
 ad eandem  
 lop pres  
 Salop dic  
 quarto su  
 richardus L  
 Child Ar  
 custod ex  
 Salop p  
 cor prefat  
 premis' in  
 p  
 separali



pres bi pulberis Bombardie pres ex Sclopeto pres  
 sic ut presert sagittat & emis' presat Thomam Fox  
 in & super dextram partem pectoris ipsius Thomæ  
 Fox prope dextrum humerum ejusdem Thomæ Fox  
 adtunc & ibidem felonice voluntarie & ex malitia  
 sua precogitata percussit & pupugit dans eidem  
 Thomæ Fox adtunc & ibidem cum Globulo plumbeo  
 pres sit ut presert sagittat & emis' in & super dex-  
 tram partem pectoris ipsius Thomæ Fox unum  
 vulnus mortale ( Anglice a Mortal Wound ) lati-  
 tudinis duorum pollicum & profunditat sex pollicum  
 de quo quidem mortali vulnere idem Thomas Fox  
 adtunc & ibidem instant obiit Et quod pres Thomas  
 Cotton eodem vicesimo secundo die Octobr' Anno  
 tertio supradicti bi & armis, &c. apud Killfall Heath  
 pres in paroch' de Donnington in Com' Salop  
 pres felonice voluntarie & ex malitia sua precogi-  
 tata fuit presens abettans confortans assistens &  
 manutenens pres Richardum Lowe ad felon &  
 Murdum pres modo & forma pres faciend &  
 perpetrand Et sic Jur' pres super sacram' suum  
 pres dixer' quod pres Richardus Lowe & Thomas  
 Cotton presat Thomam Fox modo & formam pres fe-  
 lonice voluntarie & ex malitia sua precogitata inter-  
 fecer' & Murdaver' contra pacem dicte Dom' Reg'  
 nunc Coronæ & Dignitat suas, &c. Et superinde  
 ad eandem General' Gaule deliberation' Com' Sa-  
 lop pres tenet apud Salop pres in & pro dicto Com'  
 Salop dicto die lune Duodecimo die Martii Anno  
 quarto supradicti coram presat Justic' ven' pres Ri-  
 chardus Lowe & Thomas Cotton sub Custod Thomæ  
 Child Ar' adtunc vic' Com' Salop pres in ejus  
 custod ex causa pres preantea ad Gaolam Com'  
 Salop pres ipsi separatim commissi fuissent ad Barr'  
 cor presat Justic' duct in propr' psonis suis & statim de  
 premis' in Indict pres specificat eis superius imposuit  
 separalit' allocut fuer' qualiter se vellent inde

acquietat Et iidem Richardus Lowe & Thomas Cotton adtunc separatim dixer quod ipsi in nullo fuer inde cul nec eor alter fuit inde cul Et inde de bono & malo separatim adtunc posuer & uterque eor posuit se super patriam Ideo per eandem Cur Preceptum fuit qd immediat veni inde Jurat coram Justie vice Dom Reg' ad eandem Generat Gaule Deliberationem ibidem Et Jur Jure superinde per prefat vic adtunc & ibidem Record & Impanellat scilicet Johannes Powel Ar Willielmus Owen Ar Thomas Grant Ar Edwardus Dunn Ar Thomas Cole Ar Richardus Waker Ar Obedia Adams Gen Alexander Dunton Gen Thomas Bradley Gen Johannes Hunden Gen Samuel Dodd Gen & Willielmus Russel exact veni qui ad veritatem de & super premis dicend elci triat & Jurat adtunc & ibidem dixer super Sacramentum suum qd pref Richardus Lowe & Thomas Cotton non fuer culp nec eor alter fuit cul de Mordro pref eis & eor utrique superius imposuit sed iidem Jur super Sacramentum suum pref dixer quod p'd Richardus Lowe & Thomas Cotton fuer cul & eor alt fuit cul de Homicidio & Felonica Interfectione pref Thomae Fox in Indictamentum pref specificat prout per Indictamentum pref superius supposit fuit Et qd tempore Felonie & Homicidio pref sicut prefert fact & perpetrat vel unquam postea ipsi iidem Richardus Lowe & Thomas Cotton non habuer nec eor alt habuit aliqua bon seu Cata' terras sive tenementa ad notie Jurator pref Et superinde statim per eandem Cur separatim questum fuit de pref Richardo Lowe & Thoma Cotton si quid pro se habuer aut dicere scriber quare eadem Cur ad Judicium & Executionem de eis de & super veres pref procedere non debuit qui tunc separatim dixer qd ipsi iidem Richardus Lowe & Thomas Cotton fuer Cleric & eor uterque fuit Clericus Et separatim petier beneficium Clericale

Clerical  
perinde  
tradito  
separat  
Cotton  
uterque  
tunc &  
& Thoma  
sim cau  
cauteriz  
Cotton  
cerizat  
hoze &  
Dom  
cor ipsa  
nre feci  
cor ipsa  
Dom  
remanet  
sunt ve  
Fox Ap  
Lowe &  
habere  
iidem R  
care vol  
Thomas  
chardus  
pref noi  
sunt ead  
qd pref  
Richardu  
erist &  
noiat &  
Thomas  
fuer fuit  
verba qd

Clricale eis separatim in ea parte allocari Et su-  
perinde libjo per eandem Cur' adiunc & ibidem  
tradito eidem Richardo Lowe & Thomæ Cotton  
separatim exist iidem Richardus Lowe & Thomas  
Cotton adiunc & ibidem legebant ut Clric & eor'  
uterque legebat ut Clricus Ideo per eandem Cur' ad-  
iunc & ibidem cons' fuit qd pzed Richardus Lowe  
& Thomas Cotton in eor' manu sua leba separa-  
tim cauterizarent & eor' uterque in manu sua leba  
cauterizaret Et iidem Richardus Lowe & Thomas  
Cotton adiunc & ibidem in eor' manu sua leba cau-  
terizat fuer' p'out per Recoꝝd inde in suis plen' Ro-  
hoꝝe & effectu modo exist ( quod quidem Recoꝝd  
Dom' Reg' nunc Etis de Causis in Cur' sua hic  
cor' ipsa Regina per bꝛeve suum de Certiozari ve-  
nire fecit & quod in eadem Cur' ejusdem Dom' Reg'  
cor' ipsa Reg' de termino Sanct' Michaelis Anno dicte  
Dom' Reg' nunc quarto de Recoꝝd affilat jam  
remanet ) int' al' plenius apparet Et hoc parat  
sunt verificare unde pet' Judic' si pzed Johannes  
Fox Appel' suu' pzed versus eodum Richardum  
Lowe & Thomam Cotton de Poꝝt pzed Thomæ Fox  
habere seu manutenere debeat, &c. Cum hoc qd  
iidem Richardus Lowe & Thomas Cotton verifi-  
care volunt qd ipsi iidem Richardus Lowe &  
Thomas Cotton modo Appellat, &c. Et quod pzed Ri-  
chardus Lowe & Thomas Cotton in Indictament  
pzed noiat & in foꝝm pzed convict & cauterizat  
sunt eadem due person & non al' neque diverse Et  
qd pzed Thomas Fox de cuius Poꝝte ipsi pzedat  
Richardus Lowe & Thomas Cotton modo Appellat  
exist & pzed Thomas Fox in Indictament pzed  
noiat & pro cuius Poꝝt iidem Richardus Lowe &  
Thomas Cotton in foꝝm pzed convict & cauterizat  
fuer' fuit un' & eadem person & non al' neque di-  
versa qdque pzed vulnus Poꝝtale de quo in Ap-  
pello



pello p̄d̄ supponit ipsū Thomam Fox obiisse & vulnus mortale p̄d̄ de quo in Iudicament p̄d̄ supponit ipsū Thomam Fox obiisse sunt unū & idem vulnus mortale & non al̄ neque diversum Et p̄t de p̄mis' allocation, &c. Et quoad Felon & Purdum p̄d̄ in Appell p̄d̄ specificat idem Richardus Lowe & Thomas Cotton dic' qđ ipsi in nullo sunt inde Cul' nec cor' alit' est inde Cul' Et inde de bono & malo pon' se super patriam, &c.

R. Eyre.

P. King.

Lowe & al' }  
ad Sect. } Appell' & plit'.  
Fox.

Adhuc de Termino Paschæ T. Job. Holt Mil'.

Salop ff. **M**emorandū quod ad General' deliberation' Gaule Dom' Reg' Com' Salop p̄d̄ apud Salop in Com' p̄d̄ die Lune Duodecimo die Martii Anno Reg' Dom' Anne Dei Gra Angl. Scot. Franc. & Hiber. Regine Fidei Defensor, &c. quarto coram Johanne Powell Mil' un' Justic' dicte Dom' Reg' ad placita coram ipsa Reg' tenend' assign' & Henrico Gould Mil' un' al' Justic' dicte Dom' Reg' ad placita coram ipsa Reg' tenend' assign' Justic' ipsius Dom' Reg' ad Gaolam suam ibidem de prisonar' in eas existend' deliberand' assign', &c. Johannes Fox filius & heres Thomæ Fox defunct' in propr' person' sua p' Willam sive brebe instant' appellabat Richardum Lowe nuper de London Apothecary & Thomam Cotton nuper de

de Newport in Com̄ Salop Gen̄ in Custod̄ Thomæ  
Child Ar̄ Vic̄ Com̄ p̄sed̄ ad Barram ibidem duct̄  
in propriis person̄ suis de Mort̄ p̄dicti Thomæ  
Fox patris suis & sunt pleḡ ad p̄sequend̄ illam  
Billam suam scilicet Johannes Doe & Richardus  
Roe que quidem Billā sequit̄ in hec verba ff.  
Salop ff. Johannes Fox filius & heres Thomæ Fox  
nuper de Muxton in Com̄ Salop Ar̄ in propr̄  
person̄ sua instant̄ Appellat Richardum Lowe nu-  
per de Londoni Apothecary & Thomam Cotton  
nuper de Newport in Com̄ Salop in Custod̄ Thomæ  
Child Ar̄ Vic̄ Com̄ Salop p̄sed̄ existend̄ ad Bar-  
ram duct̄ in propr̄ person̄ suis de Mort̄ dicti  
Thomæ Fox patris sui p̄sed̄ de eo qđ p̄sed̄ Richar-  
dus Lowe & Thomas Cotton Deum p̄e oculis suis  
non habentes sed instigationē diabolica moti & se-  
ducti viceſſimo secundo die Octobr̄ Anno Reḡ  
Dom̄ Anne Dei Gr̄a Angl. Scor. Franc. & Hiber.  
Reḡ fidei Defensor, &c. vi & armis, &c. apud  
paroch̄ de Donnington in Com̄ Salop, viz. in  
quodam loco ibidem vocat̄ Killſall Heath in alt̄  
Regia via ibidem in & super p̄sed̄ Thomam Fox  
in pace Dei & dicte Dom̄ Reḡ adtunc & ibidem  
existend̄ Felonice voluntarie & ex malitia sua p̄e-  
cogitat̄ insult̄ fecer̄ ac p̄sed̄ Richardus Lowe quand̄  
sclopetam (Anglice a Pistol) valor̄ decem solid̄  
adtunc & ibidem onerat̄ (Anglice charged) cum  
pulvere Bombardico (Anglice Gunpowder) &  
Globulo plumbeo (Anglice a Leaden Buller)  
quam sclopetam idem Richardus Lowe in manu sua  
dextra adtunc & ibidem habuit & tenuit in versus & ad  
p̄sed̄ Thomam Fox adtunc & ibid̄ Felonice voluntarie  
& ex malitia sua p̄ecogitata direxit sagittabit̄ & ero-  
derabit ac cū Globulo plumbeo p̄sed̄ vi pulveris  
Bombardici p̄sed̄ ex sclopetā p̄sed̄ sicut p̄feret̄ di-  
rect̄ sagittat̄ & emis̄ p̄fāt Thomam Fox in &  
super dextram partem pectoris ipsius Thomæ Fox  
prope

prope dextrum humerum ejusdem Thomæ Fox ad-  
 tunc & ibidem Felonice voluntarie & ex malitia sua  
 premeditata percussit pupugit & contudit & adtunc  
 & ibidem per percussionem punitionem & concussio-  
 nem præd cum Globulo plumbeo præd sicut præfere  
 direct sagittat & emis' in & super dictam dextram par-  
 tem pectoris ipsius Thomæ Fox prope dictum dex-  
 trum humerum ejusdem Thomæ Fox Felonice vo-  
 luntarie & ex malitia sua premeditata dedit eidem  
 Thomæ Fox un' vulnus Mortale ( Anglice one  
 Mortal Wound ) latitudin' unius pollicis longitu-  
 din' un' pollicis & profunditat' sex pollicium de  
 quo quid' vulnere Mortal' idem Thomas Fox adtunc  
 & ibidem instant' obiit Ac præd Thomas Cotton eodem  
 vicesimo secundo die Octobr' eodem Anno apud pa-  
 roch' de Donnington p'd in loco p'd & in alta Regia via  
 ibidem felonice voluntarie & ex malitia sua preme-  
 ditata fuit presens abettans assistens confortans &  
 manutenens præd Richardum Lowe ad Feloniam  
 & Mordrum præd modo & forma præd faciend' &  
 perpetrand' Et sic præd Richardus Lowe & Thomas  
 Cotton præfati Thomam Fox modo & forma præd  
 felonice voluntarie & ex malitia sua premeditat' in-  
 terfecer' & morderaver' contra pacem dicte Doind  
 Reg' nunc Coron' & dignitat' suas, &c. Et quam-  
 cito iidem felones feloniam & morderum præd se-  
 cissent fugier' & præd Johannes Fox filius & heres  
 dicti Thomæ Fox recens insecut' fuit eisdem fe-  
 lones de villa in villam usque quatuor villas pro-  
 pinquiores & ulterius quousque, &c. Et si præd  
 Richardus Lowe & Thomas Cotton Feloniam &  
 Mordrum præd sic ut præfere fact' dedicere volun-  
 tunc præd Johannes Fox parat' est feloniam & Mur-  
 drum præd versus ipsos Richardum Lowe & Thomam  
 Cotton probare prout cur' dicte Doind Reg' nunc  
 hic cons' & inven' pleg' de prosequend' Appellum  
 ill' videt' Johannem Doe & Richardum Roe, &c.  
 Et

Et præ  
 propt'  
 quando  
 Et dic'  
 præd Th  
 & Thom  
 quia dic  
 ratione  
 eodem  
 duodecim  
 Reg' An  
 un' Jus  
 Reg' te  
 Justic  
 Reg' ter  
 suam C  
 delibera  
 Farr  
 Caroli V  
 ring Ar  
 Thomæ  
 Beal Ar  
 Ar Rob  
 Owen A  
 adtunc  
 dicta Do  
 fuit quo  
 thecary  
 Com Sa  
 bentes  
 vicesimo  
 Annæ de  
 dei De  
 Killfall  
 Salop in  
 dam Tho



Et p̄res Richardus Lowe & Thomas Cotton in  
 p̄p̄t̄ person̄ suis vend & Defend̄ vim & injuriam  
 quando, &c. & om̄d̄ Felon̄ & Murdr̄ & quicquid, &c.  
 Et dic̄ qđ Johannes Fox Appellum suum p̄d̄ de Morte  
 p̄res Thomæ Fox versus eosdem Richardum Lowe  
 & Thomam Cotton habere seu manutenere non debet  
 quia dic̄ qđ alias scilicet ad General̄ Coas̄ delibe-  
 rationē Dom̄ Reg' nunc Com̄ sui Salop tenē pro  
 eodem Com̄ apud Salop in Com̄ p̄res die lune  
 duodecimo die Martii Anno Reg' Dom̄ Annæ nunc  
 Reg' Angl', &c. quarto coram Johanne Powell Mil̄  
 un̄ Justic̄ dicte Dom̄ Reg' ad placit̄ coram ipsa  
 Reg' tenend̄ assign̄ & Henrico Gould Mil̄ un̄ al̄  
 Justic̄ ejusdem Dom̄ Reg' ad placit̄ coram ipsa  
 Reg' tenend̄ assign̄ Justic̄ dicte Dom̄ Reg' ad Coas̄  
 suam Com̄ Salop p̄res de p̄sonar̄ in eadem exist̄  
 deliberand̄ assign̄ per Sacram̄ Roberti Corber  
 Barr̄ Edwardi Acton Barr̄ Rogeri Owen Ar̄  
 Caroli Walcot Ar̄ Roberti Floyd Ar̄ Walteri War-  
 ring Ar̄ Edwardi Cresset Ar̄ Roberti Piggot Ar̄  
 Thomæ Hunt Ar̄ Roberti Moor Ar̄ Bartholomæi  
 Beal Ar̄, Willielmi Whitmore Ar̄ Thomæ Acton  
 Ar̄ Roberti Clive Ar̄ Johannis Hill Ar̄ & Edwardi  
 Owen Ar̄ probor̄ & legalium hominum Com̄ p̄res  
 adunc & ibidem Jurat̄ & onerat̄ ad inquirend̄ pro  
 dicta Dom̄ Reg' & pro Corpore Com̄ p̄res presentat̄  
 fuit quod Richardus Lowe nuper de London Apo-  
 thecary & Thomas Cotton nuper de Newport in  
 Com̄ Salop, Gent. Deum p̄e oculis suis non ha-  
 bentes sed instigatione diabolica moti & seducti  
 vicesimo secundo die Octobris Anno Reg' Dom̄  
 Annæ dei Grā Angl. Scot. Franc. & Hiber. Reg'  
 sui Defensor, &c. tertio vi & armis, &c. apud  
 Kilsall Heath in Parochia de Donnington in Com̄  
 Salop in alta Regia via ibidem in & super quen-  
 dam Thomam Fox Ar̄ in pace Dei & dicte Dom̄ Reg'  
 nunc

nunc adtunc & ibidem exist felonice voluntarie & ex malitia sua premeditata insult fecer & qd p̄d Richardus Lowe quandam Sclopetam ( Anglice a Pistol ) de ferro & calybe confect valor decem solidis cum pulvere Bombardico & Globulo plumbeo adtunc & ibidem onerat quam idem Richardus Lowe in manu sua dextra sic ut p̄feret onerat adtunc & ibidem habuit & tenuit in versus & ad p̄fatus Thomam Fox adtunc & ibidem felonice voluntarie & ex malitia sua premeditata Sagittavit & eroneravit ( Anglice did shoot off and discharge ). Et cum Globulo plumbeo p̄d vi pulveris Bombardici p̄d ex Sclopetā p̄d sic ut p̄feret sagittat & emis' p̄fatus Thomam Fox in & super dextram partem pectoris ipsius Thomæ Fox prope dextrum humerum ejusdem Thomæ Fox adtunc & ibidem felonice voluntarie & ex malitia sua premeditata percussit & pupugit dans eidem Thomæ Fox adtunc & ibidem cum Globulo plumbeo p̄d sic ut p̄feret sagittat & emis' in & super dextram partem pectoris ipsius Thomæ Fox prope dextrum humerum ejusdem Thomæ Fox unū vulnus Mortale ( Anglice a Mortal Wound ) latitudinē duorum pollicium & profunditatē sex pollicium de quo quidem Mortali vulnere idem Thomas Fox adtunc & ibidem instant obijt Et qd p̄d Thomas Corton eodem vicessimo secundo die Octobris Anno tercio supradicti vi & armis, &c. apud Kilfall Heath p̄d in Parochia de Donnington p̄d in Com̄ Salop p̄d felonice voluntarie & ex malitia sua premeditata fuit p̄sens abettans consocians assistens & manutenens p̄d Richardum Lowe ad feloniam & Mordrum p̄d modo & forma p̄d faciendū & perpetrandū & sic Jur' p̄d super Sacram̄ suum p̄d tunc dixerunt qd p̄d Richardus Lowe & Thomas Corton p̄fatus Thomam Fox modo & forma p̄d felonice voluntarie & ex malitia

malitia t  
tunc con  
& dignita  
neral  
apud Sal  
tunc du  
dict cora  
Lowe &  
Ar adtun  
ex causa  
p̄d ipsi  
p̄fatus Ju  
p̄misis'  
imposit  
inde acc  
Thomas  
in nullo  
Cat Et  
suer &  
Deo per  
ben Jur  
ad eand  
Et Jur  
ibidem re  
ArWillie  
Dunn Ar  
Obediah  
Gen Th  
Gen Sa  
tract ve  
cend ele  
super S  
Thomas  
p̄d eis  
Jur sup  
Richa du

malicia sua p̄cogitata interfecerunt & m̄rdzabes  
runt contra pacem dicte Dom̄ Reg' nunc Corōn  
& dignitat' suas, &c. Et superinde ad eandem Ge-  
neral' Gaol' deliberationē Com̄ Salop p̄sē tent  
apud Salop p̄sē in & pro dicto Com̄ Salop dict' die  
hunc duodecimo die Martii Anno quarto supra-  
dict' coram p̄sēat' Justic' ven' p̄sē Richardus  
Lowe & Thomas Cotton sub Custos Thomæ Child  
Ar̄ adtunc Vic' Com̄ Salop p̄sē in cūsus Custos  
ex causa p̄sē p̄eantea ad Gaolam Com̄ Salop  
p̄sē ipsi separatim commissi fuissent ad Barr' coram  
p̄sēat' Justic' duct' in propr' person' suis & statim de  
p̄missis' in Indictament' p̄sē specificat' eis superius  
imposit' separatim allocut' fuerunt qualiter se vellent  
inde acquietari Et iidem Richardus Lowe &  
Thomas Cotton adtunc separatim dixerunt qđ ipsi  
in nullo fuerunt inde Cus' nec eorum alit' inde fuit  
Cus' Et inde de bono & malo separatim adtunc po-  
suer' & uterque eorum posuit se super patriam  
Ideo per eandem Cur' p̄cept' fuit qđ immediate  
ven' Jurat' coram p̄sēat' Justic' dicte Dom̄ Reg'  
ad eandem General' Gaol' deliberationē ibidem  
Et Jur' Jure superinde per p̄sēat' Vic' adtunc &  
ibidem retroid' & impanellat' scilicet Johannes Powell  
Ar̄ Willielmus Owen Ar̄ Thomas Brent Ar̄ Edwardus  
Dunn Ar̄ Thomas Cole Ar̄ Richardus Salter Ar̄  
Obediah Adams Gen' Alexander Duncombe  
Gen' Thomas Bradley Gen' Johannes Hunden  
Gen' Samuel Dodd Gen' & Willielmus Russell  
tract' ven' qui ad veritat' de & super p̄missis' di-  
cend' elect' triat' Et jurat' adtunc & ibidem dixerunt  
super Sacram̄ suum qđ p̄sē Richardus Lowe &  
Thomas Cotton non fuerunt Cus' de M̄rdzo  
p̄sē eis & eorum utrique superius imposit' sed iidem  
Jur' super Sacram̄ suum p̄sē dixerunt qđ predicti  
Richardus Lowe & Thomas Cotton fuerunt Cus'  
&



& eorum alii fuit Cur de Homicidio & felonica in-  
 terfectione p[re]s[ent]is Thomæ Fox in Indictament p[re]s[ent]is  
 specificat p[ro]ut per Indictament p[re]s[ent]is superius sup[er]ius  
 fuit Et quod tempore felonie & Homicidii p[re]s[ent]is  
 sicut p[re]f[er]t fact[um] & perpetrat vel unquid postea ip[s]i  
 iidem Richardus Lowe & Thomas Cotton non  
 habuer[unt] nec eorum alii habuit aliqua bona seu Catalla  
 terras sive tenementa ad noticiam Jurator[um] p[re]s[ent]is  
 superinde statim per eandem Cur[iam] separatim que-  
 situm fuit de p[re]s[ent]is Richardo Lowe & Thoma  
 Cotton si quid p[ro] se habuer[unt] aut dicere scriber[ent]  
 quare eadem Cur[ia] ad Iudicium & executionem de  
 eis de & super vered[is] p[re]s[ent]is p[ro]cedere non debuit quia  
 tunc separatim dixerunt q[uo]d ipsi iidem Richardus  
 Lowe & Thomas Cotton fuerunt Cler[ici] & eorum uter-  
 que fuit Cler[icus] & separatim petierunt benefic[ium] Cler[icorum]  
 eis separatim in ea parte allocari Et superinde li-  
 bro per eandem Cur[iam] adtunc & ibidem tradito eisdem  
 Richardo Lowe & Thomæ Cotton separatim existit  
 iidem Richardus Lowe & Thomas Cotton adtunc &  
 ibidem legebant ut Clerici & eorum uterque legebat  
 ut Clericus Ideo per eandem Cur[iam] adtunc & ibidem  
 cons[uetudo] fuit q[uo]d p[re]dict[us] Richardus Lowe & Thomas Cot-  
 ton in eorum manu sua leba separatim cauteriza-  
 rent & eorum uterque in manu sua leba cauteriza-  
 zaret Et iidem Richardus Lowe & Thomas Cotton  
 adtunc & ibidem in eorum manu sua leba cauterizat[um]  
 fuerunt p[ro]ut per Record[um] inde in suis plen[is] Robore  
 & effectu modo exist[et] (q[uo]d quidem Record[um] Dom[ini] Reg[is]  
 nunc certis de Causis in Cur[ia] sua hic coram ipsa Reg[is]  
 per breve suum de Certiorari venire fecit & quod in  
 eadem Cur[ia] eiusdem Dom[ini] Reg[is] coram ipsa Reg[is]  
 de termino Sancti Michaelis Anno Reg[is] dicte Dom[ini]  
 Reg[is] nunc quarto de Record[um] assilatis remanet)  
 int[er] al[ia] plenius apparet Et hoc parat[um] sunt veris-  
 ficare unde p[er] Iudic[em] si p[re]dict[us] Johannes Fox  
 Appell[etur]

Appell' suum p'dict' versus eisdem Richardum Lowe  
& Thomam Cotton de Morte p'dict' Thomæ Fox ha-  
bere seu manutenere debeat, &c. Cum hoc qd' iidem  
Richardus Lowe & Thomas Cotton verificare vo-  
lunt qd' ipsi iidem Richardus Lowe & Thomas Cot-  
ton modo Appellat, &c. & p'dict' Richardus Lowe  
& Thomas Cotton in Indictament' p'dict' noiat & in  
forma p'dict' convict' & cauterizat' sunt eedem due  
person' & non al' neque divers'. Et qd' p'dict' Thomas  
Fox de cuius Morte ipsi p'sat' Richardus Lowe &  
Thomas Cotton modo Appellat' exist' & p'dict'  
Thomas Fox in Indictament' p'dict' noit' & ex cuius  
Morte iidem Richardus Lowe & Thom. Cotton in  
forma p'dict' convict' & cauterizat' fuerunt fuit un' &  
ead' p'son' & non al' neque divers' quodque p'dict' vul-  
nus mortale de quo in Appello p'dict' supponit' ip-  
sum Thom. Fox obisse & vulnus mortale p'dict' de  
quo in Indictament' p'dict' supponit' ipsum Tho-  
mam Fox obisse sunt un' & idem vulnus mortale  
& non al' neque diversum & p'et' de p'miss' allocation'  
&c. Et quoad Felon' & Murdr' p'dict' in Appell' p'dict'  
specificat' iidem Richardus Lowe & Thomas Cot-  
ton dic' qd' ipsi in nullo sunt inde Cul' nec eoz' alit'  
est inde Cul' & inde de bono & malo p'ond' se sup-  
patriam, &c.

R. Eyre.

P. King.

Regina

Regina  
versus } Conviction' Exaiat' cum  
Lowe & al'. } Copia Cleric' Assisar'.

Placita pro Dom' Reg' ad General' Deliberation'  
Gaolæ Dom' Reg' Com' sui Salop tent' pro Com'  
Salop prædict' apud Salop in Com' prædict' die  
Luræ duodecimo die Martii Anno Reg' Dom'  
Anræ Dei gra' Ang' Scot' Franc' & Hib' Reg'  
Fidei Defensor' &c. Quarto Coram Joh' Powell  
Mil' Uno Justic' dict' Dom' Reg' ad' Placita co-  
ram ipsa Reg' tenend' Assign' & Henrico Gould  
Mil' uno alio Justic' dict' Dom' Reg' ad' placita  
coram ipsa Reg' tenend' Assign' Justic' ipfius  
Dom' Reg' ad Gaolam suam ibidem de prisonar'  
in eadem existen' Deliberand' Assign' &c.

Salop ff. **M**emozand qd ad General' Gaole Dom'  
Reg' deliberation' tent apud Salop  
in & pro Com' Salop die Lune duodecimo die Mar-  
tii Anno Regni Dom' Anræ Dei Gratia Angl.  
Scot. Franc. & Hib. Regine Fidei Defensor' &c.  
quarto coram Johanne Powell Mil' uno Justic' dict'  
Dom' Reg' ad placita coram ipsa Reg' tenend' Assign'  
& Henrico Gould Mil' uno al Justic' dict' Dom'  
Regine ad placita coram ipsa Regina tenend' assign'  
Justic' dict' Dom' Regine ad Gaolam suam Com'  
Salop prædict de prisonar' in eadem existen' delibe-  
rand assign' p Sacram Roberti Corbet Bar'  
Edwardi Acton Bar' Rogeri Owen Armig' Caroli  
Walcot Armig' Roberti Floyd Armig' Walteri War-  
ring Armig' Edwardi Cresset Armig' Roberti Pig-  
got Armig' Thomæ Hunt Armig' Roberti Moot  
Armig' Barth. Beale Armig' Willicmi Whitmore  
Armig'



Armig' Thomæ Aston Armig' Roberti Clive Armig'  
Johannis Hill Armig' & Edwardi Owen Armig' pro-  
bator & legalis homin' Com' p'dict' adtunc & ibidem  
jurat & onerat' ad inquirend' p' dicta Dom' Regina  
& p' Corpore Com' p'dict' p'sentat' existit qd' Richardus  
Lowe nup' de London Apothecary, & Thomas Cor-  
ton nup' de New port in Com' Salop Gen' Deum p'  
oculis suis non habentes sed instigatione Diabolica  
moti & seducti vicesimo secundo die Octobris Anno  
Regni Dom' Annæ Die Gra' Angl. Scot. Franc. &  
Hib. Regine Fidei Defensor, &c. tertio Vi &  
Armig, &c. Apud Killfall-Heath in parochia de  
Donnington in Com' Salop in alta Regia via ibid'  
in & sup' quendam Thomam Fox Armig' in pace Dei  
& dicte Dom' Regine nunc adtunc & ibidem existent'  
felonice voluntarie & ex malitia sua p'cogitata insul-  
tum fecerunt & quod p'dict' Richardus Lowe quand'  
sclopetam (Anglice a Pistol) de Ferro & Calybe  
confect' valoris decem Solidor' cum pulvere Bom-  
bardico & globulo plumbeo adtunc & ibidem onerat'  
quam idem Richardus Lowe in manu sua dextra sic  
ut p'ferretur onerat' adtunc & ibidem habuit & tenuit in  
versus & ad p'satum Thomam Fox adtunc & ibidem  
felonice voluntarie & ex malitia sua p'cogitata sa-  
gittabit & exonerabit (Anglice did shoot off and dis-  
charge) & cum globulo plumbeo p'dict' vi pulveris  
Bombardici p'dict' ex sclopeto p'dict' sic ut p'ferretur  
sagittat' & emittit' p'sat' Thomam Fox in & sup' dex-  
tram partem pectoris ipsius Thomæ Fox prope dex-  
trum humerum ejusd' Thomæ Fox adtunc & ibidem  
felonice voluntarie & ex malitia sua p'cogitata p'cul-  
sit & pupugit dans eidem Thomæ Fox adtunc & ibid'  
cum globulo plumbeo p'dict' sic ut p'ferretur sagittat' &  
emittit' in & sup' dextram partem pectoris ipsius Thomæ  
Fox p'pe dextru' humeru' ejusdem Thomæ Fox un'  
vulnus mortale (Anglice a Mortal Wound) latis-  
simum

indem duorum pollicum & profundat sex pollicum de  
quo quidem mortali vulnere idem Thomas Fox ad-  
runc & ibidem instanter obiit & quod p̄dict Thomas  
Cotton eodem vicesimo secundo die Octobris Anno  
tercio supradicto v̄l & armis, &c. apud Killfall-Heath  
p̄dict in parochia de Donnington p̄dict in Com  
Salop p̄dict felonice voluntarie & ex malitia sua  
p̄cogitata fuit p̄sens abertans confortans assistens &  
mautenens p̄dictum Richardum Lowe ad feloniam  
& Mordum p̄dict modo & forma p̄dict faciens &  
p̄petrandum. Et sic Juratores p̄dict sup Sacram  
suo p̄dict dicunt quod p̄dict Richardus Lowe &  
Thomas Cotton p̄fatum Thomam Fox modo & forma  
p̄dict felonice voluntarie & ex malitia sua p̄cogi-  
tata interfecerunt & Mordaverunt contra pacem  
dicte Dom̄ Regine nunc Coron & dignitat suas,  
&c. Sup quo ad istam eandem Generat Gaole De-  
liberation Com̄ Salop p̄dict cent apud Salop p̄dict  
in & p̄ dicto Com̄ Salop dicto die Lune duodecimo  
die Martii Anno quarto supradicto coram p̄fat Jus-  
tic ad Gaolam p̄ de Prisonar in eadem existent de-  
deliberand assign ut p̄fertur ven p̄ Richardus Lowe  
& Thomas Cotton sub Custodia Thomæ Child Ar ad-  
tunc Ric Com̄ Salop p̄ in cusus custod ex causa p̄  
pantea ad Gaolam Com̄ Salop p̄ ipsi separatim com-  
missi fuerunt ad Barram hic duct in p̄p̄is p̄sonis  
suis qui separatim committuntur p̄fat Ric, &c.  
Et statim de p̄missis in Indictament p̄dict specificat  
eis sup̄ius impos̄t sepatim allocat qualiter se ve-  
lunt inde acquietari idem Richardus Lowe & Tho-  
mas Cotton sepatim dicunt quod ipsi in nullo sunt  
inde Culpabiles nec eor alter est inde Culpabilis  
& inde de Hono & Galo sepatim ponunt & uterque  
eor ponit se sup patriam s̄o immediate ven inde  
Jurata, &c. coram eisdem Justic ult mentionat  
hic, &c. Et Juratores jurate illius p̄ p̄fat Ric ad  
hoc impanellat scilicet Johannes Powell Armig

Willie  
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p jurato  
juratoze  
triat &  
Richard  
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utrig su  
suo p̄ d  
ton sunt  
Homicid  
in Indict  
p̄dict sup  
& Homici  
unquam p  
Cotton n  
ona seu  
iam jurat  
im ques  
Cotton si  
Cur. hic ad  
eredicto p̄  
dicunt quod  
sepatim p

Willielmus Owen Armig' Thomas Grant Armig'  
 Edwardus Dunn Armig' Thomas Cole Armig' Ri-  
 chardus Salter Armig' Obedia Adams Gen' Alexan-  
 der Duncombe Gen' Thomas Bradley Gen' Jo-  
 hannes Hunden Gen' Samuel Dodd Gen' & Wil-  
 lielmus Russel erant vñ & sup hoc facta hic in Cur'  
 publica proclamatione p' Dñm Regina put mortis  
 est quod si aliquis sit qui prefat Justic' Dñm Regi-  
 ne hic Servien' ipsius Dñm Regine ad legem sive  
 Attozū ejusdem Dñm Regine General' aut Jura-  
 toribus p'dict' de p'missis p'dict' informare vellet  
 veniret & audiretur & supinde Willielmus Bridges  
 Armig' Consultatus ad legem ad hoc faciens se ob-  
 tulit p' quod p'cessum est ad Captioñ jurate p'dict'  
 p' juratores p'dict' modo hic Compareñ Qui quidem  
 juratores ad veritat' de & sup p'missis dicend' electi  
 triati & jurati dicunt sup Sacram' suum quod p'dict'  
 Richardus Lowe & Thomas Cotton non sunt Culpabi-  
 les nec eor' alter' est culpabilis de Murdero p' eis & eor'  
 utriq' supius imposuit sed idem juratoz' sup Sacram'  
 suū p' dicunt qd' p' Richardus Lowe & Thomas Cot-  
 ton sunt Culpabiles & eor' alter' est culpabilis de  
 Homicidio & Felonica interfectione p' Thomæ Fox  
 in Indictament' p'dict' specificat' put p' indictament'  
 p'dict' superius supponitur & quod tempore Felonie  
 & Homicidii p'dict' sic ut p'fertur fact' & p'petrat' vel  
 unquam postea ipsi iidem Richardus Lowe & Thomas  
 Cotton non habuerunt nec eor' alter' habuit aliqua  
 bona seu Catalla terras sive Tenementa ad Potis-  
 tiam juratoz' p'dict' sup quo statim p' Cur' hic sepa-  
 tim quest' est de p'dict' Richardo Lowe & Thoma  
 Cotton si quid p' se habeant vel dicere sciant quare  
 Cur. hic ad Judiciū & executionē de eis de & sup  
 p'edicto p'dicto p'cedere non debeat qui separatim  
 dicunt quod ipsi sunt Cler' & eor' uterque est Cler'  
 separatim petunt benefic' Clerical' eis separatim in  
 hac



hac parte allocari Et tradito eisdem Richardo Lowe  
& Thomæ Cotton separatim p Cur' hic libro eisdem  
Richardus Lowe & Thomas Cotton Legunt ut Cler'  
& eoz' uterque legit ut Cler' It Considerat est p  
eandem Cur' qd pdicti Richardus Lowe & Thomas  
Cotton in eoz' manu sua leba separatim Cauterizetur  
& eoz' uterque in manu sua leba cauterizetur,  
&c.

Tho. Breton. Cler' Allizat'

Fox

vers.

Cotton & al'

} Conviction' & Ret' Certiorari.

Placita pro Domina Regina ad General' deliberation'  
Gaolæ Dominæ Regiæ Com' sui Salop tent' pro  
Com' præd' diæ Lune duodecimo die Martii Anno  
Reg' Dom' Annæ Dei Gra' Angl' Scot' Franc' &  
Hib' Regiæ fidei Defensor', &c. quarto Coram  
Johanne Powell Mil' uno Justic' dictæ Dom'  
Reg' ad placita coram ipsa Reg' tenend' assign'  
& Henrico Gould Mil' uno alio Justic' dictæ  
Dom' Reg' ad placita coram ipsa Reg' tenend'  
assign' Justic' ipsius Dom' Reg' ad Gaolam suam  
ibidem de prisonar' in eadem existen' deliberand'  
assign', &c.

Salop ff. **M**emozand qd ad Generat' Gaole Dom'  
Regine deliberation' tent' apud Sa  
lop in & p Com' Salop die Lune duodecimo die  
Martii Anno Regni Dom' Annæ Dei Gra' Angl'  
Scot. Franc. & Hib. Reg' Fidei Defensor', &  
quarto coram Johanne Powell Mil' uno Justic'  
dictæ Dom' Regiæ ad placita coram ipsa Regiæ  
tenend' assign', &c. & Henrico Gould Mil' uno alio  
Justic'

Justic' dicte Dom' Reg' ad placita coram ipsa Reg' tenend' assign' Justic' dicte Dom' Reg' ad Gaolam suam Com' Salop p'dict' de prisonar' in eadem existend' deliberand' assign' p' Sacram' Roberti Corber Bar' Edwardi Acton Bar' Rogeri Owen Armig' Caroli Walcot Armig' Roberti Floyd Armig' Walteri Warring Armig' Edwardi Cresset Armig' Roberti Piggot Armig' Thomæ Hunt Armig' Roberti Moor Armig' Barth. Beale Armig' Williemi Whitmore Armig' Thomæ Acton Armig' Roberti Clive Armig' Johannis Hill Armig' & Edwardi Owen Armig' p'horum & legalium hominum Com' p'dict' ad tunc & ibidem jurat & onerat ad inquirend' p' dicta Dom' Reg' & p' Corpore Com' p'dict' p'sentat existit qd' Richardus Lowe nup' de London Apothecary & Thomas Cotton nup' de Newport in Com' Salop' Gen' Deum p' oculis suis non habentes sed Investigatione Diabolica moti & seduci vicesimo secundo die Decembris Anno Reg' Dom' Annæ Dei Grā Angl. Scor. Franc. & Hib. Reg' Fidei Defensor' &c. tertio vi & Armis, &c. apud Killfall-Heath in parochia de Dennington in Com' Salop in alta Regia via ibidem in & sup' quendam Thomam Fox Armig' in pace Dei & dicte Dom' Reg' nunc ad tunc & ibidem existend' Felonice voluntarie & ex malicia sua pregitata insultum fecerunt & qd' p'dict' Richardus Lowe quandam sclopetam (Anglice a Pistol) de Ferro & Calybe confect' valoris decem solidorum cum pulvere Bombardico & Globulo plumbeo ad tunc & ibid' onerat quam idem Richardus Lowe in manu sua dextra sic ut p'fertur onerat ad tunc & ibidem habuit & tenuit in versus & ad p'latum Thomam Fox ad tunc & ibid' Felonice voluntarie & ex malicia sua pregitata sagittavit & exoneravit (Anglice did shoot off and discharge) & cum Globulo plumbeo p'dict' vi pulveris Bombardici p'dict' ex sclopeto p'dict' sic

& ut pferetur sagittat & emiss pstat Thomam Fox in &  
 sup dextram partem pectoris ipsius Thomæ Fox ppe  
 dextrum humerum ejusdem Thomæ Fox adtunc &  
 ibid felonice voluntarie & ex malitia sua pcoGITata  
 pcallit & pupugit dans eidem Thomæ Fox adtunc &  
 ibidem cum Globulo plumbeo pdict sic ut pferetur  
 sagittat & emiss in & sup dictam dextram partem pec-  
 toris ipsius Thomæ Fox ppe dextrum humerum e-  
 jusdem Thomæ Fox un' Vulnus Mortale (Anglice  
 a Mortal Wound) latitudin' duor' pollicin' & pfun-  
 ditat sex pollicin' de quo quidem Mortali Vulnere  
 idem Thomas Fox adtunc & ibidem instanter obiit.  
 Et qd pdict Thomas Cotton eodem vicessimo secun-  
 do die Octobris Anno tertio supradict vi & armis,  
 &c. apud Killfall-Heath pō in parochia de Donning-  
 ton pdict in Com' Salop' pdict felonice voluntarie  
 & ex malitia sua pcoGITat fuit plens abettans con-  
 forans assistens & manutenens pdict Richardum  
 Lowe ad feloniam & Mordum pdict modo & for-  
 ma pdict factend & ppetrand Et sic Juratores sup  
 Sacram' suum pdict dicunt qd pdict Richardus  
 Lowe & Thomas Cotton pstatum Thomam Fox mo-  
 do & forma pdict felonice & voluntarie ex malitia sua  
 pcoGITata interfecer' & Mordaver' contra pacem dice  
 Dom Reg' nunc Corōn & dignitat' suas, &c. Sup  
 quo ad istam eand' General' Coale Deliberation  
 Com' Salop' pdict ten' apud Salop' pdict in & pro  
 dicto Com' Salop' dicto die Lune duodecimo die  
 Martii Anno quarto supradicto coram pstat Justic' ad  
 Gaol pdict de prisonar' in eadem existend deliberand  
 assignut pferetur ven' pdict Richardus Lowe & Tho-  
 mas Cotton sub Custos Thomæ Child Ar' adtunc Vic'  
 Com' Salop' pdict in cuius Custos ex causa pdict  
 panca ad Gaolam Com' Salop' pdict ipsi sepatim  
 commissi fuer' ad Barram hic deduct in propriis  
 psonis suis qui sepatim committuntur pstat Vic',  
 &c.

&c. C  
 cificat  
 velint  
 Thom  
 inde C  
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 ponit  
 rata, &  
 Et Ju  
 nellat  
 Owen  
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 Et sup  
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 pstat J  
 Reg' a  
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 eis & e  
 tores su  
 & Thom  
 pabif d  
 Thoma  
 dictama  
 nie & l  
 unquar  
 Cotton



Et statim de pmissis in Indictament pdict specificat eis supius imposuit separatim allocut qualiter se  
 velint inde Acquietari iidem Richardus Lowe &  
 Thomas Cotton separatim dicunt qd ipsi in nullo sunt  
 inde Culpabiles nec eor' alter est Culpabilis. Et  
 inde de bono & malo separatim ponunt & uterq; eor'  
 ponit se sup patriam Ideo immediate venit inde Ju-  
 rata, Et coram eisdem Justic' ult' mentionat hic, Et.  
 Et Juratores jurate illius p pstat Wic ad hoc impan-  
 nellat Scilicet Johannes Powell Armig' Willielmus  
 Owen Armig' Thomas Grant Armig' Edwardus Dunn  
 Armig' Thomas Cole Armig' Richardus Salter Armig'  
 Obedia Adams Armig' Alexander Duncombe  
 Gen' Thomas Bradley Gen' Johannes Hunden Gen'  
 Sam' Dodd Gen' & Willielmus Russel Cract vener'  
 Et sup hoc facto hic in Cur' publica Proclamatione  
 p Dom' Reg' put moris est qd si aliquis sit qui  
 pstat Justic' Dom' Reg' sive Servient' ipsius Dom'  
 Reg' ad legem sive Attoznat' ejusdem Dom' Reg'  
 General' aut Juratozibus pdict de pmissis pdict In-  
 formare vellet veniret & audiretur. Et supinde  
 Willielmus Bridges Armig' Consiliat' ad legem ad  
 hoc faciens se obtulit p quod pcessum est ad captionem  
 jurate pdict p Juratores pdict modo hic compa-  
 red' Qui quidem Juratores ad veritat' de & sup pmissis  
 dicend' e' tci criati & jurati dicunt sup Sacram' suum  
 qd p'd Richardus Lowe & Thomas Cotton non sunt  
 culpabiles nec eor' alter est culpabilis de Mordro p'd  
 eis & eor' utriq; superius imposuit Sed iidem Jura-  
 tores sup Sacram' suu' dicunt qd p'd Richardus Lowe  
 & Thomas Cotton sunt culpabiles & eor' alter est cul-  
 pabil' de Homicidio & Felonica Interfectione p'dicti  
 Thomæ Fox in Indictament p'd specificat put p In-  
 dictament p'd supius supponitur Et qd tempore Felo-  
 nie & Homicidii p'd sic ut p'fertur fact' & ppetrat vel  
 unquam postea ipsi iidem Richardus Lowe & Thomas  
 Cotton non habuer' nec eor' alter habuit aliqua bona

feu Catalla terras sive cehementa ad Potitiam  
 Juratoꝝ p̄dict sup quo statim p Cur p̄dict hie le-  
 paratim quesit est de p̄dictis Richardo Lowe & Tho-  
 ma Cotton si quid p se habeant aut dicere scriber quare  
 Cur hic ad Judicium & Executionem de eis de  
 sup heredito p̄dicto pcedere non debeat Qui separa-  
 tim dicunt qd ipsi sunt Cler' & eor uterque est Cler'  
 Et separatim pet benefic Clericale eis separatim in  
 hac parte allocari. Et tradito iisdem Richardo  
 Lowe & Thomæ Cotton separatim p Cur hic libꝝ  
 iisdem Richardus Lowe & Thomas Cotton Regunt  
 ut Cler' & eor uterque legit ut Cler'. Iō conside-  
 rat est p eandem Cur' quod p̄dict Richardus Lowe  
 & Thomas Cotton in eoz' manu sua leba separatim  
 cauterizentur & eozum uterque in manu sua  
 leba cauterizetur. Sup quo postea Johannes Fox  
 filius & heres p̄dict Thomæ Fox Defunct p Consilium  
 suum in lege Crudis instanter p̄tulit & ex-  
 hibuit in eadem Cur' quandam Willam Appel de  
 Mordzo p̄dict Thomæ Fox patris sui Quē quidem  
 Willa in sedula Annecat continetur. Et idem  
 Johannes Fox adtunc & ibidem in eadem Cur' petit  
 p Consilium suum Willam Appel de Mordzo p̄dict  
 in eadem Cur' recipi & assilari. Et adtunc &  
 ibidem obtulit Willam Appel de Mordzo p̄dict  
 Arrainar'. Et supinde postea & ante quam Willa illa  
 arrainat fuit p̄dict Richardus Lowe & Thomas  
 Cotton separatim pet benefic Cler' eis separatim allo-  
 cari p Homicidio p̄dict unde p Jur' patrie supius  
 separatim Convict fuerunt. Et postea Willa Appel  
 p̄dict in eadem Cur' p Consilium p̄dict Johannis Fox  
 Appellant perlus p̄dictos Richardum Lowe & Tho-  
 mam Cotton Appellat debito modo Arrainat &  
 lect fuit in aperta Cur' p̄dict. Et p̄dictus Ri-  
 chardus Lowe & Thomas Cotton hie & auditu  
 Wille p̄dict gratis Comperuer Et adtunc & ibidem  
 salvis eis omnibus exceptionibus ad Willam  
 Appel

Appell  
 usque ad  
 Salop' p  
 in Corn  
 rat' deli  
 thanni Fo  
 dus Lowe  
 lium tra  
 dem pzo  
 p̄dict ter  
 Lune se  
 Reg' A  
 and Bar  
 Breton &  
 and Justi  
 Reg' ten  
 Dond R  
 p̄dict  
 ton Pow  
 Reg' de  
 p̄dict in  
 appia pe  
 & Thoma  
 respond,  
 Cotton  
 fecerunt,  
 Salop' ff.  
 tent p C  
 die Lune  
 Annæ II  
 Reg' fide  
 Powell &  
 coram ip  
 p̄dict uno  
 coram ip

Appell' p'dict petant licentiam inde Interloquendi  
usque ad p'm'd General' deliberation' Gaole Com'  
Salop' p'dict tenend' apud le Town-Hall in Salop'  
in Com' p'dicto Et habent. &c. Eadem Gene-  
ral' deliberatio Gaole Com' p'dict dat est p'sat Jo-  
hanni Fox ibidem, &c. Et sup'inde p'dict Richar-  
dus Lowe & Thomas Cotton petunt seipsos in Bal-  
lium tradi Et eis conceditur, &c. Ad quam qui-  
dem p'or' General' deliberation' Gaole Com' Salop'  
p'dict tenet apud Salop' in & p' Com' p'dicto die  
Lune sexto die Augusti Anno Reg' Dom' nunc  
Reg' Angl', &c. quarto coram Thoma Bury Mil'  
et Baroni Scaccarii dicte Dom' Reg' & Thoma  
Breton Ar' hac vice associato Littleton Powys Mil'  
et Justic' dicte Dom' Reg' ad placita coram ipsa  
Reg' tenend' assign' & p'sat Thomæ Bury Justic' ipsius  
Dom' Reg' ad General' deliberation' Gaol' Com'  
p'dict deliberand' assign', &c. p'sentia dicti Little-  
ton Powys inexpectat' virtute Brevis dicte Dom'  
Reg' de si non omnes, &c. Apud le Town-Hall  
p'dict in Salop' p'dict ven' p'dict Johannes Fox in  
ppia persona sua Et pet' qd p'dict Richardus Lowe  
& Thomas Cotton ad Willam suam Appell' p'dict  
respond', &c. Et p'dicti Richardus Lowe & Thomas  
Cotton licet solempnit' exact' non ven' sed Defalt'  
fecerunt, &c.

Salop' ff. **M**emozand' qd ad General' Gaol' deli-  
beration' Dom' Reg' Com' sui Salop'  
tenet p' Com' Salop' p'dict apud Salop' in Com' p'dict  
die Lune Duodecimo die Martii Anno Reg' Dom'  
Annæ Dei Grā Angl. Scot. Franc. & Hiber.  
Reg' fidei Defensor, &c. quarto coram Johanne  
Powell Mil' et Justic' dicte Dom' Reg' ad placita  
coram ipsa Reg' tenend' assign' & Henrico Gould  
Mil' uno alio Justic' dicte Dom' Reg' ad placita  
coram ipsa Reg' tenend' assign' Justic' ipsius Dom'  
Reg'



Reg' ad Gaolam suam ibidem de prisonar' eadem existend' deliberand' assignd', &c. Johanne Fox filius & heres Thomæ Fox defuncti in propria persona sua per Willam sive hiebe instante Appellat Richardum Lowe nuper de London Apothecary & Thomam Cotton nuper de Newport in Com' Salop' Gen' in Custod' Thomæ Child Ar' Vic' Com' Salop' p'dict' ad Barram hic deduct' in propriis psonis suis de Parte p'dict' Thomæ Fox patris suis Et sunt pleg' de prosequend' illam Willam suam scilicet Johannes Doe & Richardus Roe Que quidem Willa sequitur in hec verba scilicet. Salop' ff. Johannes Fox filius & heres Thomæ Fox nuper de Muxton in Com' Salop' Ar' in propria psona sua Instante Appellat Richardum Lowe nuper de London Apothecary & Thomam Cotton nuper de Newport in Com' Salop' Gen' in Custod' Thomæ Child Ar' Vic' Com' Salop' p'dict' existend' ad Barram duct' in propriis psonis suis de Parte dicti Thomæ Fox patris sui p'dict' eo qd' p'dict' Richardus Lowe & Thomas Cotton Deum p oculis suis non habentes sed Instigatione diabolica moti & seducti viceffimo secundo die Decembris Anno Reg' Dom' Annæ Dei Grā Angliæ Scot. Fran. & Hiber. Reg' fidei Defensor, &c. tertio vi & armis apud parochiam de Donnington in Com' Salop', viz. in quodam loco ibidem vocat' Killfall-Heath in alta Regia via ibidem in & super p'dict' Thomam Fox in pace Dei & dicte Dom' Reg' adtunc & ibidem existend' felonice voluntarie & ex malitia sua p'ogitat' insult' fecerunt ac p'dict' Richardus Lowe quandam Sclopetam ( Anglice Pistol ) valoris decem Solidorum adtunc & ibidem onerat' ( Anglice charged ) cum pulvere Fombarat' dico ( Anglice Gunpowder ) & Globulo plumbeo ( Anglice a leaden Bullet ) quam Sclopetam idem

Richardus

Richard  
ibidem  
Fox ad  
malicia  
ac cum  
hardici p  
bagittat  
dextram  
dextrum  
ibidem f  
gitata p  
ibidem p  
p'dict' cur  
rect Sag  
partem p  
dextrum  
voluntari  
Thomæ I  
Mortal V  
ad uniu  
quo quid  
adunc &  
Cotton ex  
Anno apu  
ibidem fe  
ata fuit  
Panuten  
Purdzu  
petrand  
Cotton p  
felonice  
erfecer'  
Reg' nun  
ito iiden  
cissent f  
us & he

Richardus Lowe in manu sua dextra adtunc & ibidem habuit & tenuit in versus & ad p̄dict Thomam Fox adtunc & ibidem Felonice voluntarie & ex malicia sua p̄cogitata direxit sagittabit & exonerabit ac cum Globulo plumbeo p̄dict vi pulveris Tomhardici p̄dict ex Sclopeta p̄dict sic ut p̄feritur direct̄ sagittat & emittit p̄dictum Thomam Fox in & super dextram partem pectoris ipsius Thomæ Fox p̄pe dextrum Humerum ejusdem Thomæ Fox adtunc & ibidem felonice voluntarie & ex malicia sua p̄cogitata percussit pupugit & concudit ac adtunc & ibidem per p̄cussionem punctionem & contusionem p̄dict cum Globulo plumbeo p̄dict sic ut p̄feret̄ direct̄ sagittat & emittit in & super dictam dextram partem pectoris ipsius Thomæ Fox prope dictum dextrum humerum ejusdem Thomæ Fox Felonice voluntarie & ex malicia sua p̄cogitata dedit eidem Thomæ Fox unum vulnus Mortale ( Anglice one Mortal Wound ) latitudinē unius pollicis longitudinē unius pollicis & profunditatē sex Pollicium de quo quidem vulnere Mortali idem Thomas Fox adtunc & ibidem instanter obiit. Ac p̄dict Thomas Cotton eodem vicesimo secundo die Octobris eodem Anno apud parochiam de Donnington in loco p̄dict ibidem felonice voluntarie & ex malicia sua p̄cogitata fuit plens abettans auxilians confortans & panutenens p̄dict Richardum Lowe ad Feloniam Murdum p̄dict modo & forma p̄dict faciendū & perpetrandū Et sic p̄dict Richardus Lowe & Thomas Cotton p̄dictum Thomam Fox modo & forma p̄dict felonice voluntarie & ex malicia sua p̄cogitata interfecer̄ & murtherer̄ contra pacem dicte Dondreeg nunc Corow & dignitatē suas, &c. Et quamvis iidem Felones Feloniam & Murdum p̄dict percussissent fugierunt. Et qđ Johannes Fox dictus filius & heres dicti Thomæ Fox recens insecutus fuit eosdem

eosdem Felones de villa in villam usque quatuor  
villas ppinquiores & ulterius quousque, &c. Et  
si pdict Richardus Lowe & Thomas Cotton Feloni-  
niam & Murdum pdict sic ut prefertur fact deducere  
volunt tunc pdict Johannes Fox parat est Feloniam  
& Murdum pdict versus ipsos Richardum Lowe  
& Thomam Cotton probare prout Cur' dicte Domi-  
Reg' nunc hic Cons' Et Inven' pleg' de proles-  
quens Appellum illud, viz. Johannem Doe & Ri-  
chardum Roe, &c.

Salop' ff.

**M**emorand' qd ad General' delibera-  
tion' Gaol' Domi Reg' Com-  
sui Salop' tenet pro Com' Salop' pdict apud Salop' in  
Com' pdict die Lune duodecimo die Martii Anno  
Regni Domi Annæ Dei Grā Angl. Scot. Franc. &  
Hibern. Regine fidei Defensor, &c. quarto coram  
Johanne Powell Mil' und Justic' dicte Domi Reg'  
ad placita coram ipsa Regina tenend' assign' &  
Henrico Gould Mil' und al' Justic' dicte Domi Re-  
gine ad placita coram ipsa Regina tenend' assign'  
Justic' ipsius Domi Regine ad Gaolam suam ibid'  
de psonar' in eadem existend' deliberandam as-  
sign', &c.

Salop' ff.

**C**arolus Tracy de Lincoln's Inn in Com'  
Middlesex Gen' & Edwyn Griffin de  
Symon's Inn in Com' Middlesex Gen' veni hic in  
Cur' in propriis psonis suis & manuceperunt ad ha-  
bend' Corpus Richardi Lowe nuper de London A-  
pothecary coram Justic' dicte Domi Reg' ad propi-  
mam deliberation' Gaol' pro Com' Salop' pdict  
tenend' & sic de die in diem quousque, &c.  
ad respondend' Johanni Fox filio & heredi Thomæ  
Fox de Porte pdict Thomæ unde eum Appellat

Quilibet Manucapt' Corpus pro Corpore, &c.

Salop'



Salop' ff. **J**ohannes Rogers de Salop' in Com  
Salop' Inholder & Thomas Clark de ea-  
dem Barber ven' hic in Cur' in p'p'is p'sonis suis &  
manuceperunt ad habend' Corpus Thomæ Cotton  
super de Newport in Com' Salop' Gen' coram Ju-  
stic' dicte Dom' Reg' ad p'or' deliberation' Gaol'  
pro Com' Salop' p'dict' tenend' & sic de die in  
diem quousque, &c. ad respondend' Johanni Fox fi-  
lio & heredi Thomæ Fox de Pozte p'dict' Thomæ  
unde eum Appellat

Quilibet Manucapt' Corpus pro Corpore, &c.

Lowe & al' } Retorn' Certiorari ad removend.  
ad Secta' } Appell' Murdri.  
Fox.

Angl' ff. **D**om' Reg' mandabit Justic' de Oyer de  
Terminer necnon General' Gaol' de-  
liberation' Com' Salop' de p'isonar' in eadem ex-  
istend' & eorum cuilibet breve suum Clausum  
in hec verba ff. Anna Dei Gra' Angl. Scot.  
Franc. & Hiber. Reg' fidei Defensor, &c. Justic'  
nostris de Oyer & terminer necnon General' Gaol'  
deliberation' Com' nr' Salop' de p'isonar' in eadem  
deliberand' & eorum cuilibet Salutem Volentes cert'  
de Causis om' & singul' Record' Conviction' de qui-  
buscunque felon' & homicid' unde Thomas Cotton  
& Richardus Lowe coram vobis Indict' sunt & super-  
inde p' quendam Juram patrie int' nos & p'dict' Tho-  
mam & Richardum capt' Convict' existunt & super-  
inde Judic' reddit' sit ac etiam Appell' superinde  
(ut dicitur) coram nobis p' vos mitti vobis & cuili-  
bet vestrid' Mandand' qd' Record' & Appell' p'dict' cum  
omnibus ea tangend' adeo plene & integre p'out co-  
tam

eosdem Felones de villa in villam usque quatuor  
villas ppinquiores & ulterius quousque, &c. Et  
si p̄dict Richardus Lowe & Thomas Cotton Feloni-  
nam & Mordum p̄dict sic ut p̄fertur fact debicere  
volunt tunc p̄dict Johannes Fox parat est Feloniam  
& Mordum p̄dict versus ipsos Richardum Lowe  
& Thomam Cotton probare prout Cur dicit D̄m  
Reg' nunc hic Cons' Et Invenit pleg' de prose-  
quens Appellum illud, viz. Johannem Doe & Ri-  
chardum Roe, &c.

Salop', ff. **M**emorand qd ad General delibera-  
tionem Gaol D̄m Reg' Com  
sui Salop' tenet pro Com Salop p̄dict apud Salop' in  
Com p̄dict die Lune duodecimo die Martii Anno  
Regni D̄m Annæ Dei Grā Angl. Scot. Franc. &  
Hibern. Regine fidei Defensor', &c. quarto coram  
Johanne Powell M̄r un' Justic' dicte D̄m Reg'  
ad placita coram ipsa Regina tenens assigni  
Henrico Gould M̄r un' al' Justic' dicte D̄m Re-  
gine ad placita coram ipsa Regina tenens assigni  
Justic' ipsius D̄m Regine ad Gaolam suam ibi  
de p̄sonar' in eadem existens deliberandam as-  
signi, &c.

Salop' ff. **C**arolus Tracy de Lincoln's Inn in Com  
Middlesex Gen' & Edwyn Griffin de  
Symon's Inn in Com Middlesex Gen' veni hic in  
Cur' in propriis p̄sonis suis & manuceperunt ad ha-  
bens Corpus Richardi Lowe nuper de London A-  
pothecary coram Justic' dicte D̄m Reg' ad p̄xi-  
mam deliberationem Gaol pro Com Salop' p̄dict  
tenens & sic de die in diem quousque, &c.  
ad respondens Johanni Fox filio & heredi Thoma  
Fox de Morte p̄dict Thomæ unde eum Appellat  
Quilibet Manucap' Corpus pro Corpore, &c.

Salop'

Salop' ff. **J**ohannes Rogers de Salop' in Com  
Salop' Inholder & Thomas Clark de ea-  
dem Barber vend' hic in Cur' in p'p'is p'sonis suis &  
manuceperunt ad habend' Corpus Thomæ Cotton  
nuper de Newport in Com' Salop' Gen' coram Ju-  
dic' dicte Dom' Reg' ad p'or' deliberation' Gaol  
pro Com' Salop' p'dict' tenend' & sic de die in  
diem quousque, &c. ad respondend' Johanni Fox fi-  
lio & heredi Thomæ Fox de Poite p'dict' Thomæ  
unde eum Appellat

Quilibet Panucap' Corpus pro Corpore, &c.

Lowe & al' } Retorn' Certiorari ad removend.  
ad Secta' } Appell' Mordri.  
Fox.

Angl' ff. **D**om' Reg' mandabit Justic' de Oyer de  
Terminer necnon General' Gaol de  
liberation' Com' Salop' de p'sonar' in eadem ex-  
istend' & eorum cuilibet h're suum Clausum  
in hec verba ff. Anna Dei Gra' Angl. Scot.  
Franc. & Hiber. Reg' fidei Defensor, &c. Justic'  
nostris de Oyer & terminer necnon General' Gaol  
deliberation' Com' nr' Salop' de p'sonar' in eadem  
deliberand' & eorum cuilibet Salutem Volentes cert'  
de Causis ord' & singul' Record' Conviction' de qui-  
buscunque felon' & homicid' unde Thomas Cotton  
& Richardus Lowe coram vobis Indict' sunt & super  
inde p' quendam Juram patrie int' nos & p'dict' Tho-  
mam & Richardum cap't Convict' existunt & super  
inde Judic' reddit' sit ac etiam Appell' superinde  
(ut dicitur) coram nobis p' vos mitti vobis & cuili-  
bet vestru' Pandam qd' Record' & Appell' p'dict' cum  
omnibus ea tangend' adeo plene & integre p'out co-  
tam



ram vobis jam resident quibuscumque nominibus libere  
 Thomas & Richardos nuncupenter in eisdem coram  
 nobis sub sigillis vestris aut vobis vestrum a die sancti  
 Mich' in tres sept ubique tunc fuerimus in Ang  
 mittat seu vobis vestrum mittat unacum hoc breve  
 ulterius inde fieri fac qd de Jure ac secundum  
 legem & cons' Reg' nostri Angl. fore viderimus faci  
 end' Teste J. Holt Just' apud Westm' xxvii. die Junii  
 Anno Reg' nostri quarto

p Regu' Cur'

p Cur' Harcourt.

Responsio Thomæ Bury Just' vobis & Baron' Braccari  
 Dom' Reg' & vobis Justic' infra specificat' Executio  
 istius brevis patet in quadam schedul' hujus brevis an  
 nexat.

Tho. Bury.

Placita pro Dom. Reg. ad General. deliberationem.  
 Goalæ Dom. Reg. Com. sui Salop' rent. pro Com.  
 Salop' præd. apud Salop' in Com. præd. die Lunæ  
 duodecimo die Martii Anno Reg. Dom. Annæ  
 Dei Gra. Angl. Scot. Franc. & Hibern. Reg.  
 fidei Defensor. &c. quarto coram Johanne Powell  
 Mil. un. Justic. dictæ Dom. Reg. ad placita  
 coram ipsa Regina tenend. assign. & Henrico  
 Gould Mil. un. al. Justic. dictæ Dom. Reg. ad  
 placita coram ipsa Reg. tenend. assign. Justic.  
 ipsius Dom. Reg. ad Gaolam suam ibidem de  
 prisonariis in eadem existen. deliberand. as  
 sign. &c.

Salop', ff. **M**emozand' qd ad Generat' Gaole  
 Dom' Reg' deliberationem rent  
 apud Salop' in & pro Com' Salop' die lune duo  
 decimo die Martii Anno Reg' Dom' Annæ Dei  
 Gra Angl. Scot. Franc. & Hibern. Reg' fidei De  
 fensor,

Defensor, &c. quarto coram Johanne Powell Justic dicit Dom Reg' ad placita coram ipsa Regina tenend assign & Henrico Gould Justic dicit Dom Reg' ad placita coram ipsa Regina tenend assign Justic dicit Domine Regine ad Gaolam suam Com Salop' p'dict de prisonariis in eadem existent deliberand assign p Sacram Roberti Corbet Barr Edwardi Acton Barr Rogeri Owen Ar' Caroli Walcot Ar' Roberti Floyd Ar' Walteri Waring Ar' Edwardi Cresset Ar' Roberti Piggot Ar' Tho. Hunt Ar' Roberti Moor Ar' Bartholomæi Beale Ar' Williemi Whitmore Ar' Thomæ Acton Ar' Roberti Clive Ar' Johannis Hill Ar' & Edwardi Owen Ar' proborum & legalium hominum Com p'dict adtunc & ibidem Jurat & onerat ad Inquisitend pro dicta Dom Reg' & pro Corpore Com p'dict presentat existit qd Richardus Lowe nuper de London Apothecary & Thomas Cotton nuper de Newport in Com Salop' Gen Deu pre oculis Juris non habentes sed Instigatione diabolica morti seduct vicesimo secundo die Octobris Anno Reg' Dom Annæ Dei Gra Angl. Scot. Franc. & Hibern. Reg' fidel Defensor, &c. tertio vi & armis, &c. apud Killfall-Heath in parochia de Donnington in Com Salop' in alta Regia via ibidem in & super quendam Thomam Fox Ar' in pace Dei & dicit Dom Reg' nunc adtunc & ibidem existent Felonice voluntarie & ex malitia sua premeditata Insult fecer' Et qd p'dict Richardus Lowe quandam Sclopetam (Anglice a Pistol) de Ferro & Calybe confect bas' decem solidis cum pulvere Bombardico & Globulo plumbeo adtunc & ibidem onerat quamdem Richardus Lowe in manu sua dextra sic ut p'fert onerat adtunc & ibidem habuit & tenuit in versis & ad p'fat Thomam Fox adtunc & ibid felonice voluntarie & ex malitia sua premeditata sagittavit & exoneravit (Anglice did shoot off and discharge) & cum Globulo

bulo plumbeo p[ro]dict[us] vi pulberis Bombardici p[ro]dict[us] et  
 Sclopeti p[ro]dict[us] sic ut p[ro]fert sagittas & emiss[us] p[ro]f[ec]  
 Thomam Fox in & super dextram partem pectoris ip  
 sius Thomæ Fox p[ro]pe dextrum humerum ejusdem  
 Thomæ Fox adunc & ibidem felonice voluntarie & e  
 malicia sua p[ro]cogitata percussit & pupugit dans eidem  
 Thomæ Fox adunc & ibidem cum Globulo plum  
 beo p[ro]dict[us] sic ut p[ro]fert sagittas & emiss[us] in & supe  
 dextram partem pectoris ipsius Thomæ Fox p[ro]p[er]  
 humerum ejusdem Thomæ Fox un[de] vulnus Mortale  
 ( Anglice a Mortal Wound ) latitudin[em] duorum  
 pollicium & profunditat[em] sex pollicium de quo quid  
 dem Mortali vulnere idem Thomas Fox adunc  
 ibidem instant[er] obiit & q[uo]d p[ro]dict[us] Thomas Cotton  
 eodem vicissimo secundo die Octobris Anno tertio  
 supradict[us] vi & armis, &c. apud Killall-Heath p[ro]dic  
 in parochia de Donnington p[ro]dict[us] in Com[itatu] Salop[ie]  
 p[ro]dict[us] felonice voluntarie & ex malicia sua p[ro]cogitata  
 fuit p[re]sens abettans confortans assistens & manutene  
 nens p[ro]dict[us] Richardum Lowe ad feloniam & Mur  
 d[ur]um p[ro]dict[us] modo & forma p[ro]dict[us] faciend[um] & p[er]petran  
 Et Juratores p[ro]dict[us] super Sacram[ent] suum p[ro]dict[us] d  
 cunt q[uo]d p[ro]dict[us] Richardus Lowe & Thomas Cotton  
 p[re]f[ec]t[us] Thomam Fox modo & forma p[ro]dict[us] felonice vo  
 luntarie & ex malicia sua p[ro]cogitata interfecerunt  
 & Mordaverunt contra pacem dicte Dom[us] Reg  
 nunc Cor[poris] & dignitat[is] suas, &c. Sup[er] quo ad ista  
 cand[um] Genera[li] Gaole deliberation[em] Com[itatu] Salop[ie] p[ro]dic  
 rent apud Salop[ie] in & p[er] dicto Com[itatu] Salop[ie] dicto d  
 lunc duodecimo die Martii Anno quarto supradic  
 coram p[re]f[ec]t[us] Justic[i] ad Gaolam p[ro]dict[us] de Prisonar[um]  
 eas existend[um] deliberand[um] assign[um] ut p[ro]fert Willelm[us] p[ro]dic  
 Richardus Lowe & Thomas Cotton sub Cust[odia]  
 Thomæ Child Ar[chiepiscopi] adunc Willelm[us] Com[itatu] Salop[ie]  
 cusus Custos ex causa p[ro]dict[us] pantea ad Gaolam  
 Com[itatu] Salop[ie] p[ro]dict[us] ipsi separatim commiss[us] fuerunt &  
 Barran



Barram hic duct in propr' person' suis qui separat  
 committuntur p'fat' Wic, &c. Et statim de p'missis  
 in Indictament p'dict' specificat eis superius imposuit  
 separat' allocut' qualiter se velint inde acquietari iidem  
 Richardus Lowe & Thomas Cotton separat' dicunt  
 qd' ipsi in nullo sunt inde culpabiles nec eorum  
 alit' est inde culpabilis Et inde de bono & malo se-  
 parat' ponunt & uterque eorum ponit se sup' pa-  
 triam Ideo immediate veni inde Jur', &c. coram  
 eisdem Justic' ult' menconat' hic, &c. Et Jur'  
 Jure illius per p'fat' Wic' ad hoc impannellat'  
 scilicet Johannes Powel Ar' Willielmus Owen Ar'  
 Thomas Grant Ar' Edwardus Dunn Ar' Thomas  
 Cole Ar' Richardus Walter Ar' Obediah Adams  
 Gen' Alexander Duncombe Gen' Thomas Bradley  
 Gen' Johannes Hunden Gen' Samuel Dodd Gen' &  
 Willielmus Russel exact' vener' & super hoc fact' hic in  
 cur' publica proclamatione pro Dom' Reg' prout  
 moris est qd' si aliquis sit qui p'fat' Justic' Dom'  
 Reg' hic Serviend' ipsius Dom' Reg' ad legem sive  
 Actor' ejusdem Dom' Reg' Generat' aut Jurato-  
 ribus p'dict' de p'remissis p'dict' Informare vellet ve-  
 niret & audiret Et superinde Willielmus Bridges Ar'  
 Consiliar' ad legem ad hoc faciend' se obtulit ita qd'  
 processum est ad caption' Jurate p'dict' per Juratores  
 p'dict' modo hic comparend' qui quidem Juratores ad-  
 verit' de & super p'remiss' dicend' elect' Triat' &  
 Jurat' dicunt super Sacram' suum qd' p'dict' Ri-  
 chardus Lowe & Thomas Cotton non sunt Culpabi-  
 les nec eorum alit' est Culpabilis de Mordzo p'dict'  
 eis & eorum utrique superius imposuit sed iidem  
 Juratores super Sacram' suum p'dict' dicunt qd'  
 p'dict' Richardus Lowe & Thomas Cotton sunt Cul-  
 pabiles & eorum alit' est Cul' de homicidio & felo-  
 nica Interfection' p'dict' Thomæ Fox in Indictament'  
 p'dict' specificat' prout per Indictament' superius

supponit qd tempore felonie & homicidii pdicti ne  
ut prefertur facti & perpetrati vel unquam postea ip  
torem Richardus Lowe & Thomas Cotton non ha  
buerunt nec eorum alii habuit aliqua bona seu Ca  
talla terras libe tenementa ad nocte Jur' pdicti super  
quo statim p Cur' pdicti separati questit est de pdicti  
Richardo Lowe & Thoma Cotton si quid pro se  
habeant vel dicere sciant quare Cur' hic ad Judic' &  
executionem de eis de & super veredict' pdicti procedere  
non debeat qui separati dicunt qd ipsi sunt Clerici  
& eorum uterque est Clericus & separati pet' benefi  
cium Clericali eis separati in hac parte allocari &  
traditio eidem Richardo Lowe & Thoma Cotton  
separati p Cur' hic libro tidem Richardus Lowe &  
Thomas Cotton legunt ut Clerici & eorum uter  
que legit ut Clerici Jo' cons' est p eandem Cur'  
qd pdicti Richardus Lowe & Thomas Cotton in  
eorum manu sua leba separati cauterizentur Et eorum  
uterq; in manu sua leba cauterizetur, &c. super quo  
postea Johannes Fox filius & heres pdicti Thoma Fox  
defuncti p consilium suum in lege eradit instant' pro  
culis & exhibuit in eadem Cur' quandam Will' Appell  
de Purbro p Thoma Fox Patris sui que quid Willa  
in Schedula Annex' continetur Et idem Johannes Fox  
adunc & ibidem in eadem Cur' pet' p consilium  
suum Will' Appell de Purbro pdicti in eadem  
Cur' recipi & assilari & adunc & ibidem obtulit  
Will' Appell de Purbro pdicti arrainari & super  
inde postea & antequam Will' ille arrainatus fuit  
pdicti Richardus Lowe & Thomas Cotton separati  
petunt benefic' Clerici eis separati allocari pro ho  
micidio pdicti unde p Jur' superius separati convicti  
fuerunt & postea Will' pdicti in eadem Cur' p  
consilium pdicti Johannis Fox Appellanti versus pdicti  
Richardum Lowe & Thomam Cotton Appellati de  
bico modo arrainati & lecti fuit in aperta Cur'  
pdicti

dicti & dicti Richardus Lowe & Thomas Cotton habito audire Bill dicti gratis compererunt & adtunc & ibidem salvis eis omnibus exceptionibus ad Bill Appelli dicti petunt licent inde interloquens usque ad prior' General' deliberation' Gaule Com' Salop' dicti tenens apud le Town-Hall in Salop' in Com' dicti Et habent, &c. Eadem deliberatio Gaule Com' Salop' p' dat est prefat' Johanni Fox ibidem, &c. Et superius presdict' Richardus Lowe & Thomas Cotton per se ipsos in Ballium tradi & eis concedit, &c. Ad quam quid prior' General' deliberation' Gaule Com' Salop' dicti tenet apud Salop' in & pro Com' dicti die Lune sexto die Augusti Anno Reg' Dom' Annæ nunc Reg' Angl', &c. quarto coram Thoma Bury Mil' un' Baron' Scaccarii dicte Dom' Reg' & Thoma Breton Ar' hac vice associat' Littleton Powys Mil' un' Justic' dicte Dom' Reg' ad placita coram ipsa Reg' tenens assign' & prefat' Thoma Bury Justic' ipsius Dom' Reg' ad General' deliberation' Gaule Com' dicti deliberand' assign', &c. Plencia dicti Littleton Powys inexpectat' virtute brevis dicte Dom' Reg' de si non omnes, &c. apud le Town Hall dicti in Salop' dicti ven' dicti Johannes Fox in propr' person' sua Et per qd dicti Richardus Lowe & Thomas Cotton ad Billam suam Appell' dicti respond', &c. Et dicti Richardus Lowe & Thomas Cotton licet solempniter exact non ven' sed defuncti fecerunt, &c.

Salop' ff. **M**emorand' qd ad General' Gaule Deliberation' Dom' Reg' Com' sui Salop' dicti apud Salop' in Com' dicti die Lune duodecimo die Martii Anno Regni Dom' Annæ Dei Gra Angl. Scor. Franc. & Hib. Reg' Fidei Defensor, &c. quarto coram Johanne Powell Mil' un' Justic' dicte Dom' Reg' ad placita coram ipsa Reg' tenens assign'



& Henr' Gould Mil' und' at Justic' dicte Dom' Reg' ad placita coram ipsa Reg' tenend' Assign' Justic' ipsius Dom' Reg' ad Gaolam suam ibidem de Prisonar' in eadem existent' deliberand' Assign', &c.

Salop' ff. **C**arolus Tracy de Lincolns-Inn in Com' Middl' Gen' & Edwyn Griffin de Symon's-Inn in Com' Middl' p'd Gen' Wren hic in Cur' in p'p'is psonis suis & manucepunt ad habend' cor'pus Richardi Lowe nup' de London Apothecary coram Justic' dicte Dom' Reg' ad p'p'or' General' Deliberation' Gaole p' Com' Salop' p'dict' tenend' & sic de die in diem quousque, &c. ad respond' Johanni Fox filio & heres' Thomae Fox de Wozte p'dict' Thomae unde eid' Appellat.

Quilibet manucaptor p'd Corpus p' Corpore, &c. Salop' ff. **J**ohannes Rogers de Salop' in Com' Salop' Innholder & Thomas Clark de eadem Barber Wren hic in Cur' in p'p'is psonis suis & manucepunt ad habend' Corpus Thomae Corton nup' de Newport in Com' Salop' gen' coram Justic' dicte Dom' Reg' ad p'p'or' General' Deliberation' Gaole p' Com' Salop' p'dict' tenend' & sic de die in diem quousque, &c. Ad respond' Johanni Fox filio & heres' Thomae Fox de Wozte p'dict' Thomae unde eid' Appellat.

Quilibet manucapt p'd Corpus p' Corpore, &c.

Salop' ff. **M**emorand' q'd ad General' Gaole Deberation' Dom' Reg' Com' sui Salop' rent p' Com' Salop' p'd apud Salop' in Com' p'd die Lune duodecimo die Martii Anno Reg' Dom' Annae Dei Gra Angl' Scot. Franc. & Hib. Reg' fide Defensor, &c. quarto coram Johanne Powell Mil' Justic' dicte Dom' Reg' ad placita coram ipsa

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Regina tenens Assign & Henr' Gould M<sup>r</sup> and at  
 Justic' ipsius Dom' Reg' ad Gaolam suam ibidem de  
 Prisonar' in eadem existens deliberans Assign, &c.  
 Johannes Fox filius & heres Thomæ Fox defuncti  
 in p<sup>ro</sup>pria p<sup>ro</sup>sona sua p<sup>ro</sup> Will<sup>elmo</sup> Ave Webe instanter ap-  
 pellat Richardum Lowe nup de London Apothecary,  
 & Thomam Cotton nup de Newport in Com' Salop'  
 Gen' in Custod' Thomæ Child Ar' Vic' Com' p<sup>ro</sup>dict'  
 ad Barram hic ducti in p<sup>ro</sup>priis p<sup>ro</sup>sonis suis de morte  
 p<sup>ro</sup>dict' Thomæ Fox pat' sui Et sunt pleg' ad pro-  
 sequens Will<sup>elmo</sup> sua scilicet Johannes Doe & Richardus  
 Roe que quidem Willa sequitur in hec verba ff.  
 Salop' ff. Johannes Fox filius & heres Thomæ Fox  
 nup de Muxton in Com' Salop' Ar' in p<sup>ro</sup>pria p<sup>ro</sup>sona sua  
 instant' appellat Richardum Lowe nup de London  
 Apothecary & Thomam Cotton nup de Newport in  
 Com' Salop' Gen' in Custod' Thomæ Child Ar'  
 Vic' Com' Salop' p<sup>ro</sup>dict' existens ad Barr' ducti in  
 p<sup>ro</sup>pria p<sup>ro</sup>sona suis de morte dicti Thomæ Fox patris  
 sui p<sup>ro</sup>dict' de eo quod p<sup>ro</sup>dict' Richardus Lowe & Tho-  
 mas Cotton Deum p<sup>ro</sup> oculis non habentes sed Insti-  
 gatione Diabolica moti & seducti vicessimo Secundo  
 die Octob' Anno Reg' Dom' Annæ Dei Gra Angl.  
 Scot. Franc. & Hiber. Reg' Fidei Defensor, &c.  
 tertio vi & armis, &c. apud Parochiam de Donning-  
 ton in Com' Salop' videlicet in quod loco ibidem vo-  
 cat Killfall-Heath in alta regia via ibidem in & sup  
 p<sup>ro</sup>dict' Thomam Fox in pace Dei & dicte Dom' Reg'  
 adtunc & ibidem existens felonice voluntarie & ex  
 malitia sua p<sup>ro</sup>rogitata insult fecer' ac p<sup>ro</sup>dict' Richardus  
 Lowe quando Sclopetam (Anglice a Pistol) valor  
 decem solidis adtunc & ibidem onerat (Anglice Char-  
 ged) cum pulvere Bombardico (Anglice Gunpowder)  
 & Globulo plumbeo (Anglice a leaden Buller) quam  
 Sclopetam idem Richardus Lowe in manu sua dex-  
 tra adtunc & ibidem habuit & tenuit in versus & ad

P̄dict Thomam Fox adtunc & ibidem felonice vo-  
 luntar' & ex malicia sua p̄cogitata direxit sagittavi-  
 & eroneravit ac cum Globulo plumbeo p̄dict bi pul-  
 veris Bombardici p̄dict ex Sclopeto p̄dict sic ut p̄-  
 fertur direct sagittat & emiss' p̄fat Thomam Fox  
 in & sup dextram partem pectoris ipsius Thomæ  
 Fox p̄pe dextrum humerum ejusdem Thomæ Fox  
 adtunc & ibidem felonice voluntarie & ex malicia  
 sua p̄cogitata percussit pupugit & contudit ac adtunc &  
 ibidem p̄ percussione[m] punctionem & concussionem  
 p̄dict cum Globulo plumbeo p̄dict sic ut p̄fert  
 Direct sagittat & emiss' in & sup dictam dextram  
 partem pectoris ipsius Thomæ Fox p̄pe dictum dex-  
 trum humerum ejusdem Thomæ Fox felonice vo-  
 luntarie & ex malicia sua p̄cogitata dedit eidem  
 Thomæ Fox un[um] vulnus Mortale (Anglice one  
 mortal Wound) latudin' un[um] pollicis & pfunditat  
 sex pollic' de quo quidem vulnere Mortal' idem  
 Thomas Fox adtunc & ibidem instant' obiit ac p̄dict  
 Thomas Cotton eodem vicesimo secundo die Octob'  
 eodem Anno apud Donnington p̄dict in loco p̄dict  
 & in alta regia via p̄dict ibidem felonice voluntarie  
 & ex malicia sua p̄cogitata fuit p̄sens abertans as-  
 sistens auxilians confortans & manutenens p̄dict  
 Richardum Lowe ad Feloniam & Murd' p̄dict  
 modo & forma p̄dict faciend' & p̄petrand' Et sic p̄dict  
 Richardus Lowe & Thomas Cotton p̄fat Thomam  
 Fox modo & forma p̄dict felonice voluntarie & ex  
 malicia sua p̄cogitata Interfecer' & Murdraver' con-  
 tra pacem dicte Dom' Reg' Coron' & dignitat' suas,  
 &c. Et quam cito Felones p̄d Feloniam & Murd' p̄dict  
 fecissent fugter Et p̄dict Johannes Fox dictus  
 filius & heres dicti Thomæ Fox reced' Insecut' fuit  
 eosdem Felopes de Willa in Willam usque quatuor  
 Willas p̄pinquiores & ulterius quousque, &c. Et  
 & p̄dict Richardus Lowe & Thomas Cotton  
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Feloniam & Murdru p̄dict sic ut p̄fertur fact de-  
dicere velint tunc p̄d Johannes parat est Feloniam  
& Murdru p̄dict & ipsos Richardum Lowe & Tho-  
mam Cotton p̄bare put Cur' dice Dom' Reg'  
nunc hic Cons' Et Inven' pleg' de p̄sequens Ap-  
pell illud videt Johannem Doe & Richardum Roe,  
&c.

Bail for Appearance on Appeal.

Salop fl. **R**ichardus Lowe de parochia Sancti Dun-  
stani in Occiden London Pharmacop  
traditur in Ball sup Breve de Cer' Justic de Oyer  
& Terminer, &c. & General Gaol Deliberation, &c.  
p̄ Recoꝝ Conviction p̄ quibz Felonias & Homi-  
cid unde Thomas Cotton & p̄dict Richardus coram  
p̄fat Justic indictati sunt & supinde p̄ quandam Ju-  
ram Patrie inter Dom' Reg' & p̄dict Thomam &  
Richardum capti convicti existunt Ac etiam Appell  
supinde p̄ comparentia sua in Cur' Dom' Reg' co-  
ram ipsa Reg' apud Westm' primo die pr' Ter-  
mini Sancti Michael' & sic de die in diem & non  
decedere sine Licenc' Cur', &c.

Edwino Griffin de Symonds-Inn in Chancery-lane  
jun Armig' & Carolo Tracy de Ludgate-hill Lon-  
don, Genl.

Uterque pleg' Subpena 100 l.

J. Holt.

Et pars Subpena

200 l.

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Salop'

Recognizance for Appearance.

Salop ff. **T**homas Cotton de Newport in Com' Salop' Gen' tradit ut in Ball sup' Bieve de Cer' Justic' de Oyer & Terminer' & General Gaol Deliberation, &c. p' Record Conviction p' quibus Feloniis & Homicidiis unde p'dict' Thomas Cotton & Richardus Lowe coram p'lat' Justic' indicat' sunt & sup'inde p' quand' Juram Patrie inter Dom' Reg' & p'dict' Thomam & Richardum capt' convict' existunt & sup'inde Judicium reddidit sic Ac etiam Appell' sup'inde p' compencia sua in Cur' Dom' Reg' coram ipsa Reg' apud Westm' primo die p' Terminu Sancti Michael' & sic de die in diem & non deceder' sine Licenc' Cur', &c.

Georgio Reves de parochia Sancti Bridget a'ts Brides London Cordwainer & Edwardo Lowe de parochia Sancti Andrea Holborn in Com' Middlesex Gen'.

Capt' & cogn' p'd die Augusti A.D. 1705. Utterque pleg' Subpena 100l. Et pars Subpena 200l.

Coram J. Holt.

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Breviate to discharge the Recognizances.

Johannes Fox fil'	}	In Appello Murdri in Banc' Reg'
& hæres Thome		
Fox defunct'		
versus		
Richardum Lowe	}	
& Thom. Cotton.		

For the Appellees.

AT the last *Salop* Assizes was Twelve-month the Appellees were tried upon an Indictment for the Murder of the said *Thomas Fox*, found guilty of Manslaughter only, and burnt; and afterwards were charged with the Appeal, which they remov'd into the Court of Queen's Bench by *Certiorari*; and upon obtaining the Writ of *Certiorari*, gave the usual Recognizance for appearing in the Queen's Bench on the Day of the Return, and so *de die in Diem*, &c. and not to depart the Court without Leave.

The Appellees have duly appear'd ever since, but the Appellant hath never in Court arraign'd or charg'd them with the Appeal; so that the Appellees have sued forth two *Scire Facias's* to oblige him to it; And the Sheriff of *Shropshire* hath now return'd two *Nichils* thereon.

The *alias Scire fac'* is ret' a die *Paschæ* in quinque *Septiman'*, &c.

Move 1<sup>st</sup>. According to the Notice mention'd in the Affidavit, and if the Appellees are charged with the Appeal in Court, then

Move,



*Moved 2dly*, That the Appellees may have Time until a Week in next Term to plead.

Mr. Eyre.

R. Gale

### Notice to Discharge the Recognizances.

Fox  
versus  
Cotton & al'

Mr. Stow,

THE Court of Queen's Bench will be moved to Morrow, or so soon after as Counsel can be heard, That the Recognizances enter'd into by the Appellees and their Sureties, upon their obtaining the Writ of *Certiorari* in this Cause, may be discharg'd, together with the Appeal itself.

I am Sir,

3d May,  
1706.

Yours, &c.

Rob. Gale. Attorn' pro Appellees.

Paschæ Anno 5<sup>o</sup> Annæ Reginae.

Fox  
versus  
Cotton & al'

} Affidavit of Notice to move for  
} Discharge of the Recognizances.

**R**ichard Lowe, one of the Appellees in this Cause, maketh Oath, That he, this Deponent, did this present Day deliver Notice in Writing to Mr. Stow, who acts as Attorney or Agent for the said Appellant, that the Court of Queen's Bench will be mov'd to Morrow, or so soon after as Counsel can be heard, That the Recognizances enter'd into by

# Appeals and Murder.

171

by the Appellees and their Sureties, upon their obtaining the Writ of *Certiorari* in this Cause, may be discharg'd, together with the Appeal itself.

Rich. Lowe.

*Fur' 30 die Maii Anno Regni Dom' Annae nunc Reg' Angl' &c. quinto Annoq; Dom' 1706. Coram me*  
H. Gould.

Lord Chief Justice's Summons for the Under-Sheriff of Shropshire to attend, &c.

*Cotton & al' ads'*

For.

LET the Under-Sheriff of Shropshire attend me at my Chambers in *Serjeants-Inn*, *Chancery*-lane this day at Seven of the Clock in the Afternoon, to shew Cause why he should not alter his Return lately made to a *Scire fac'* issu'd in this Cause. Dated, &c.

J. Holt.

Motion to Record the Defendants Appearances.

versus

*Cotton & al'*

In Appello Mordri.

MOVE that the Appearances of the Defendants may be recorded.

The Defendants have sued out a *Scire fac' ret'* *Hab' Purif'*; and will sue out an *al's ret'* the first day of next Term, to oblige the Plaintiff to prosecute his Appeal.

Mr. Eyre.

Cot-

Cotton &amp; al'

ads.

Fox.

In Appello Murdri.

**M**Ove to record the Defendants Appearances  
and that the Plaintiff may reply in four  
Days (the Defendants their Plea being left with  
Mr. Clark last Night)

Die Mercur', &c. Paschæ Anno 6. *Anna Reg'*

Fox

versus

Lowe &amp; al'.

**O**Rdinat' est quod comparenc' Def' recorder' ex  
motive Magistri Eyre.

per Cur'.

Instructions to move to record the Ap-  
pearance of the Appellees.

*Johannes Fox filius &  
hæres Thomæ Fox de-  
funct' versus  
Richardum Lowe &  
Thomam Cotton*

In Appello Murdri in  
Banc' Reg'.

**A**T the last Lent Salop Assizes the Appellees were  
tried upon an Indictment for the Murder of  
the said *Thomas Fox*, found guilty of Manslaughter  
and burnt; and afterwards were charged with this  
Appeal, which they have remov'd into the Queen's  
Bench.

*Vide*  
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Salop'

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remov'  
Recog

*Vide*



*Vide* The Return of the *Certiorari*.

The last Day of last Term the Appellees appear'd in Court, and their Appearances were recorded, *prout* annex'd Rule, and the Court then declared, That they would consider what Method to put the Prosecution in for the future.

*Note*, That the Appellant's Attorney has deliver'd no Declaration to the Attorney for the Appellees, tho' demanded so to do.

The Appellees are willing to plead in a reasonable Time.

*Move*, That their Appearances may be Recorded; and to have the Sense of the Court as to the Method aforesaid.

The Appellees are in Court.

For Mr. Eyre.

Gale.

Motion to record Appearance of Appellees, and to discharge the Appeal.

Termino Paschæ quinto *Anna*, &c.

Cotton & Lowe  
ads'.

Fox filii & heredis  
Fox patris sui defunct'.

In Appello Murdri.

Salop' ff.

**A**T *Lent* Assizes was Twelve-month the Appellees were indicted for the Murder, and found guilty of Manslaughter, and burnt; soon after the Burning, this Appeal was commenc'd, which (at the Prosecution of the Appellees) was the subsequent Assizes by *Certiorari* remov'd into the Queen's Bench; according to the Recognizances entred into upon Granting such *Certiorari*,

*siorari*, the Appellees have appear'd in the Queen's Bench the first and last Days of *Michaelmas* and *Hilary* Terms last; but the Appellant has not yet appear'd by Attorney, or *in Propria Persona* charg'd the said Appellees to prosecute the said Appeal; so that the Appellees have sued forth *Scire facias*'s directed to the Sheriff of *Salop* to oblige the Appellant so to do; but the *alias Scire facias* is not yet return'd, but returnable this Day.

*Moved*, That the Appearances of the said Appellees may be recorded by Mr. Symons, for so Mr. Clark insists it ought to be. And that the Appeal may be discharg'd.

## Endors'd on the Backside.

For Mr. Eyre.

*R. Gale.*

**'Appeal of Murder, brought by a Woman  
for the Death of her Husband; With  
Special Pleadings.**

Anno Octavo Anræ Reg'.

Northumb' fl. **W**illielmus Charlton nuper de  
Readsmouth in Com' Nor-  
thumb' Gen' Attach fuit p' Corpus suū ad Re-  
spondens Elizabeth & Widdrington Aldre que fuit  
ux' Henrici Widdrington Gen' de Poite p'ict  
Henrici quondam viri sui unde eū Appellat Et  
sunt pleg' de psequens scilicet Matheus Robson  
nup de Bellingham in Com' p'ict Preom' & Williel-  
mus Robson nup de, &c. Et unde eadem Eliza-  
betha in ppr' pson' sua instanter Appellat p'ict  
Will'

Will' Charlton de eo qd ubi p'dict' Henricus Widdrington vicesimo primo die Febr' Anno Regni Dom' Reg' Annæ Dei Gra Magnæ Britannia Franc' & Hiber' Regine fidei Defensor, &c. Datæ Hora tertia post meridiem ejusd' diei apud Bellingham p'dict' in Com' p'dict' fuit in pace Dei & dict' Domine Regine adtunc & ibidem vident' p'dict' Willielmus Charlton felonice voluntarie ac ex malicia sua p'rogata ut Felo dicte Domine Regine nunc ac contra pacem dicte Domine Regine nunc Corod' & dignitat' suas Anno Die & Hora p'dict' apud Bellingham p'dict' in Com' p'dict' vi & armis, &c. Et in & sup' p'dict' Henricum Widdrington in pace Dei & dicte Domine Regine adtunc & ibidem ut p'fect' p'cessit felonice voluntarie & ex malicia sua p'rogata insult' fecit Et tñ quod Gladio extract' de Ferro & Chabibe confect' valoris quinqz solidis quem ipse idem Willielmus Charlton in manu sua dextra adtunc & ibidem scilicet Anno die Hora & loco p'dict' in Com' p'dict' habuit & tenuit p'fat' Henric' Widdrington in & sup' sinistram partem Corporis ipsius Henrici p'pe sinistram mamillam (Anglice the Left Pap) p'fat' Henrici Anno die Hora & loco p'dict' in Com' p'dict' felonice voluntarie & ex malicia sua p'rogata p'ussit & inforavit (Anglice did strike and thrust) Dans eidem Henrico Widdrington adtunc & ibidem tñ Gladio extract' p'dict' in & sup' dictam sinistram partem Corporis ipsius Henrici p'pe p'dict' sinistram mamillam p'fat' Henrici unū vulnere mortale (Anglice one mortal Wound) Longitudinis unius pollicis & pfunditat' quatuor pollicum de quo quidem Vulnere mortali p'dict' Henricus Widdrington Anno die & hora p'dict' apud Bellingham p'dict' in Com' p'dict' instant' obiit Et sic p'dict' Willielmus Charlton ut felo dicte Dom' Reg' p'p'at Henricum Widdrington modo & forma p'dict' Anno



Anno die & hora p̄dict apud Bellingham p̄dict in  
 Com̄ p̄dict felonice voluntarie & ex malitia sua  
 p̄rogitat interfecit & p̄urpavit contra pacem dñe  
 Dom̄ Reḡ nunc coronā & dignitatē suas, &c. Et  
 quam cito idem Willielmus Charlton Feloniam &  
 p̄urp̄um p̄dict in forma p̄dict fecisset ipse idem  
 Willielmus Charlton fugit p̄dictaque Elizabetha  
 Widdrington ipsum Willielmum Charlton recent in  
 secut fuit de villa in villam usque quatuor villis  
 p̄pinq̄uiores Et ulterius quousque, &c. Et si p̄dict  
 Willielmus Charlton Feloniam & p̄urp̄um p̄dict  
 ei in forma p̄dict imposuit velit dedicere p̄dict  
 Elizabetha Widdrington hoc parat est versus eum  
 probare p̄p̄t Car̄ hic, &c. Et p̄dict Willielmus  
 Charlton salvis sibi omnibus advantagiis & excep  
 tionibus tam ad breve de Appello quam ad separa  
 p̄ocels & Retor̄ inde in p̄p̄t persona sua veni  
 defend vim & Injur̄ quando, &c. ac omnem fe  
 loniam & p̄urp̄um & quicquid, &c. Et p̄t au  
 dictum brevis original̄ de Appello p̄dict & Retor̄  
 ejusdem brevis & ei legunt in hec verba s̄. Anna  
 Dei Gr̄a Magna Britannia Franc̄ & Hibernia  
 Regina fidei defensor, &c. Wic Northumbr̄ Sal  
 lutem Quia Elizabetha Widdrington, vidua que fuit  
 ur̄ Henrici Widdrington fecerit nos secut de  
 Clam̄ suo p̄os p̄ Mattheum Robson nuper de  
 Bellingham in Com̄ tuo Yeoman & Willielmum  
 Robson nuper de, &c. Iō tibi p̄cipim̄ qđ Attach  
 William Charlton nuper de Readsmouth in Com̄ tuo  
 Generosum per corpus suum secundum legem  
 consuetud̄ Angliæ ita qđ cum habeas coram nobis in  
 Crastino sancti Martini ubicunque tunc fuerim̄ in  
 Angl. ad Respondend̄ p̄fat Elizabetha de Poze p̄  
 Henrici quondam viri sui unde cum Appellat &  
 habeas ibi hoc breve Teste meipsa apud Westm̄ xx  
 Die Octobris Anno Reḡ nr̄ nono, &c. Infra nomina  
 Willielmus

Willielm  
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 Henrici  
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Willielmus Charlton nihil habet in Balliva mea per  
quod attach' potest nec est invent' in eadem. Johan-  
nes Horsley Ar. Vic. Pet etiam idem Willielmus  
Charlton auditum h'ebis de capias in & versus Williel-  
mum Charlton occasione p'd emanat & adjudicat & re-  
tornd ejusdem h'ebis & ei legunt in hec verba ff.  
Anna Dei Gra Magnæ Britannia Franc. & Hibern.  
Regina fidei Defensor, &c. Vic Northumbr'  
salutem p'cipiunt tibi q'd Capias Willielmum Charlton  
nuper de Readsmouth in Comd tuo generosum si  
invent' fuerit in Balliva tua & eum salvo custod ita  
q'd habeas Corpus ejus coram nobis a die Sancti  
Hillar in quindecim dies ubicunque tunc fuerint in  
Angl. ad respond' Elizabethæ Widdrington vid' que  
fuit uxor Henrici Widdrington de Port p'res Hen-  
rici Widdrington quondam viri sui unde etd Ap-  
pellat Et habeas ibi hoc h'ebe. L. Thoma Parker  
Pil apud Westm xiii. die Novembris Anno Regni  
nostri nono. Holt & Ventris Infranomina't Willielmus  
Charlton non est invent' in Balliva mea Georgius  
Fletcher Ar. Vic. Pet etiam idem Willielmus Charl-  
ton auditum h'ebis de erigendo in & versus ipsum  
Willielmum Charlton superinde emanat & adjudicat  
& retornd ejusdem h'ebis & ei legunt in hec verba ff.  
Anna Dei Gra Magnæ Briannia Franc. & Hi-  
bern. Regina fidei Defensor, &c. Vic Northumbr'  
salutem p'cipiunt tibi q'd erigi fac Willielmum Charl-  
ton nuper de Readsmouth in Comd tuo generosum de  
Comd in Comd quousque secundum legem & cons-  
uetud' hujus Regni utlagaret si non comparuit Et  
si comparuit tunc eum capias & salvo custod fac ita  
q'd habeas corpus ejus coram nobis a Die Sancti  
Michaelis in tres septimanas ubicunque tunc fue-  
rint in Angl. ad respondend' Elizabethæ Widdring-  
ton vid' que fuit ur' Henrici Widdrington de Port p'd  
Henrici quondam viri sui unde Tu ipse nobis retornd  
q'd p'res Willielmus Charlton non est Invent' in

N

Balliva

Balliba tua Et habeas ibi hoc breve L. Thomæ Parker Mil apud Westm xxv. die Januarii Anno Regni nostri nono. Holt & Ventris. Virtut istius brevis mihi direct ad Comd meū tenē apud Alnwick pro Comd Northumbrie infrascript die Jobis videlt viceſſimo nono die Martii Anno Regni Domi Reg' infrascript Decimo infranominat Willielmus Charlton primo exact fuit & non comperuit Ad Comd meū ibidem tenē die Jobis videlt viceſſimo sexto die Aprilis Anno Decimo supradict p̄s Willielmus secundo exact fuit & non comperuit Et ad Comd meū ibidem tenē die Jobis videlt viceſſimo quarto die Maii Anno Decimo supradict p̄s Willielmus tertio exact fuit, &c. Et superinde comperuit & reddidit se mihi Vic Comd p̄s super quo Corpus p̄s Willielmi Charlton cepi cūſus quidem Corpus coram dict Domi Reg' ad diem infra content ubique, &c. parat habeo p̄out ulterius mihi p̄cipit Respons' Johannis Middleton Bar Vic. Quibus lect & audit idem Willielmus Charlton pet Judic de brevi de Appello p̄s quia dic qd breve de Appello p̄s & process' inde non sufficiend in lege existunt ad ipsum Willielmum Charlton ad dict breve de Appello Respondere compellend Et hoc parat est verificare p̄out Cur, &c. Unde petit Judic de brevi de Appello p̄s Et petit inde allocationē & qd breve ill de Appello casset Et p̄s Willielmus Charlton ulterius dic qd p̄s Elizabetha breve de Appello suo p̄s versus ipsum Willielmum Charlton habere seu manutenerē non debet quia idem Willielmus Charlton dic qd p̄s Elizabetha nunquam fuit p̄fat Henrico Widdrington in Legitimo Patrimonio copulat Et hoc parat est verificare ubi & quando, &c. Unde idem Willielmus Charlton pet Judic si p̄s Elizabetha secundum breve suum de Appello p̄s inde versus ipsum Wil-

Willielm  
beat C  
lielmu  
Culpat  
patrian  
Et p  
lielmi i  
placitat  
non del  
ried in  
sponder  
Elizabeth  
petit J  
adjudice  
lielmi i  
pello su  
ipsa p a  
habend  
dicit qd  
Comd N  
simo A  
Widdring  
do & pro  
similit

Dickins  
versus  
Scarlet.

Carol  
& H  
ibus Lo  
generosus



Willielmum Charlton habere seu manutenere debeat Et quoad Felon & Murdrum preb idem Willielmus Charlton dicit qd ipse in nullo est inde Culpabil Et inde de bono & malo ponit se super patriam Et preb Elizabetha similiter &c.

Et p<sup>o</sup> Elizabetha quoad preb placitum ipsius Willielmi in cassatione brevis ipsius Elizabetha superius placitata dicit qd p aliqua pallegat breve preb cassari non debet quia dicit qd breve preb bonum & sufficiens in lege existit ad Willielmum Charlton preb Respondere Compellens Quod quidem breve eadem Elizabetha parat est verificare prout Cur, &c. Unde petit Iudicium & quod breve suum preb bonum adjudicet, &c. Et quoad preb placitum ipsius Willielmi in Barram brevis ipsius Elizabetha de Appello superius placitata eadem Elizabetha dicit qd ipsa p aliqua pallegat a breve suum de Appello p<sup>o</sup> habens seu manutenens precludi non debet quia dicit qd preb Elizabetha apud parochiam de, &c. in Com Northumbria in dioc de Durham in Legitimo Patrimonio fuit copulata prefat Henrico Widdrington Et hoc parat est verificare ubi & quando & prout Cur consideraverit Et preb Willielmus similiter &c.

Hill' xxxv. Caroli Secundi.

Dickinson } Brevis de Appello Murdri & Indictament', &c.  
versus  
Scarlet.

Carolus Secundus Dei Gra Angl. Scot. Franc. & Hibern. Rex fidei Defensor, &c. Vicemibus London Salutem Quia Carolus Dickinson generosus frater & heres Henrici Dickinson Gen  
N 2 fecit

fecit nos securum de Clamoze suo prosequens Ideo  
 nobis precipimus qđ attach' Willielmum Scarlet  
 nuper de London Gen per Corpus suum secundum  
 legem & consuetudinem Regni nostri Angl. ita qđ  
 eum habeatis coram nobis in Civitatib' Sancti Willielmi  
 ubicunque tunc fuerimus in Angl. ad respond' pre-  
 sat' Carolo Dickenson de Morte prefat' Henr' unde  
 eum appellat Et habeatis ibi tunc hoc breve Teste me  
 ipso apud Westm' Septimo die Septembris Anno  
 Regni nostri tricesimo quinto Virtute istius brevis  
 nobis direct' cepimus Corpus infrascript' Willielmum  
 Scarlet cuius quidem Corpus coram Dno Reg' in-  
 frascript' ad diem & locum infrascript' parat' habere  
 mus Respons' Petri Daniel Ar' & Samuelis Dashiwood  
 Ar' Ulic' Quibus lectis & auditis idem Willielmus  
 Scarlet dic' qđ p'ed' Carolus Dickenson Appellum  
 suum p'ed' de Morte p'ed' Henr' versus eum habere  
 seu manutenere non debet quia dic' qđ alias scilicet  
 ad Generat' Belford pacis Dno Reg' cens' p'ed'  
 Civitat' London apud Guildhall ejusdem Civitat'  
 ac infra eandem Civitat' die Lune scilicet decimo  
 die Decembris Anno Reg' Dno nostri Caroli se-  
 rundi Dei Gra Angl. Scot. Franc. & Hibern. Regis  
 fidei Defensor, &c. tricesimo quinto coram Henrico  
 Tulse Mil' Majoze Civitat' London Thoma Jenne  
 Mil' un' de Consilio dicti Dno Reg' iuravit in leg'  
 ac Recordatoze ejusdem Civitat' Jacobo Smith Mil'  
 & Johanne Peake Mil' Aldermannis dicte Civitat'  
 ac al' locis suis Justic' dicti Dno Reg' ad pacem  
 in Civitat' predicta conservand' necnon ad diversar'  
 Felonias transgr' & al' Malefact' infra eandem Ci-  
 vitat' perpetrat' audiend' & terminand' assign' Ge-  
 nerat' Sessio ista pacis adornat' fuit per prefat'  
 Justic' dicti Dno Reg' usque diem Mercurii scilicet  
 ret duodecimum diem ejusdem Mensis Decembris  
 Anno supradicto ad horam septimam ante meridiem  
 ejusdem

ejusdem  
 London  
 Farring  
 Justic'  
 Cur' co  
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 dicti  
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 & War  
 Decem  
 Mil' M  
 Willielm  
 London  
 Regis  
 vitatis  
 al' Ald  
 Justic'  
 conserba  
 al' Male  
 & tern  
 Johannis  
 deret W  
 Matthe  
 Oyer T  
 Broome  
 Carpen  
 Civitat'  
 & onera  
 & corpor  
 nomen  
 Indicta  
 Dickinso  
 hec verb  
 super Sa  
 nuper de  
 habens

ejusdem diei apud Justicehall in le Old Bayly London in paroch' sancti Sepulchri in Warda de Farringdon extra London tenend' coram p'fat' Justic' & al' sociis suis ad faciend' ulterius prout Cur' considerat, &c. Ac superinde p' quendam Inquisitionem cap't ad eandem Generat' Sessionem pacis dicti Dom' Reg' tent' pro Civitat' London per adjournament' p'red' apud Justicehall p'red' in paroch' & Warda p'd' dicto die Mercurii scilicet duodecimo die Decembris Anno supradict' coram p'fat' Henrico Tulse Mil' M'ajore Civitat' London Willielmo Turner Mil' Willielmo Prichard Mil' Aldermannis vice Civitat' London Thoma Jenner Mil' un' de Concilio Dom' Regis crudel' in lege ac Recordatore ejusdem Civitatis Jacobo Smith Mil' & Roberto Jeffryes Mil' al' Aldermannis vice Civitat' ac al' sociis suis Justic' dicti Dom' Reg' ad pacem in Civitat' p'red' conserband' necnon ad diversas Felonias transgr' & al' Malefacta infra eandem Civitat' perpetrat' audiend' & terminand' assign'd per Sacram' Petri Pickering Johannis Johnson Thomæ Barnes Johannis Harderet Willielmi Hall Henrici Kemp Samuelis Leake Matthæi Fowler Willielmi Firzhughes Doyley Oyer Thomæ Sciffon Humphridi Pooler Josephi Broomer Henrici Robins Georgii Richards Jacobi Carpenter & Roberti Legg probor' & legalit' Dom' Civitat' London p'red' qui adtunc & ibidem Jurat' & onerat' fuer' ad Inquirend' pro dicto Dom' Reg' & corpore Civitatis p'd' idem Willielmus Scarlet per nomen Willielmi Scarlet nuper de London Gen'd Indictat' fuit de predicta Morte predicti Henrici Dickinson quod quidem Indictament' sequitur in hec verba ff. London ff. Juratores p'red' p' Dom' Reg' super Sacram' suum p'sentant q'd Willielmus Scarlet nuper de London generosus D'ed' p' oculis suis non habens sed instigatione Diabolica motus & seductus



decimo nono die Octobris Anno Reg' Dom' nostri  
 Caroli secundi dei Gra Angl. Scot. Franc. & Hiber.  
 Regis fidei Defensor, &c. tricesimo quinto vi &  
 armis, &c. apud London videlt in paroch' Sancti  
 Benedict' Paulswharf in Warda de Castle Baynard  
 London p'res in & super quendam Henricum Dick-  
 inson in pace Dei & dicti Dom' Reg' advunc & ibid  
 existend' felonice voluntarie & ex malicia sua pre-  
 cogitata insult' fecit Et qd p'res Willielmus Scarlet  
 advunc & ibidem cum quodam Gladio (Anglice  
 vocat a Rapier) de Ferro & Chalybe confect' valoris  
 quinque solidorum quem ipse idem Willielmus Scar-  
 let in manu sua dextra advunc & ibidem extract'  
 habuit & tenuit p'fat' Henricum Dickenson in &  
 super dextram partem pectoris ipsius Henrici Dick-  
 inson paulo sub' dextram mamillam (Anglice  
 Pap) ejusdem Henr' Dickenson advunc & ibidem  
 violent' felonice voluntarie & ex malicia sua pre-  
 cogitata percussit & inforavit dans eidem Henr.  
 Dickenson advunc & ibidem cum Gladio p'dicto &  
 super p'dictam dextram partem pectoris ipsius Henrici  
 Dickenson paulo sub' dextram mamillam ejusdem  
 Henrici Dickenson un' vulnus mortale latitudinis  
 unius pollicis & profunditat' quinque pollicium de  
 quo quidem vulnere mortale p'fat' Henr. Dickenson  
 advunc & ibidem instant' obiit Et sic Juratores p'd  
 super Sacram' suum p'res dicunt qd p'dictus Wil-  
 lielmus Scarlet p'fat' Henr. Dickenson dicto decimo  
 nono die Octobris Anno vicessimo quinto supra-  
 dicto apud parochiam & Wardam p'res modo &  
 forma p'res felonice voluntarie & ex malicia sua  
 p'cogitata interfecit & m'rdavit contra pacem dicti  
 Dom' Reg' nunc coron' & dignitat' suas, &c. per  
 quod p'recept' fuit Vic' civitat' London qd non  
 omittant, &c. Quin caperent ipsum Willielmum  
 Scarlet &, &c. ad respondendum, &c.

Appeal

Appeal  
Lon  
witDe Ter  
Regi  
Regi

London

ad Res  
hered' H  
de mort  
ed Ap  
Thoma  
Carolus  
juxta fe  
Willielm  
ubi p'di  
Regis  
Sancti  
Baynar  
Dom  
limo qu  
jusdem  
rochia &  
let qui r  
Regis n  
dita' co  
dignita  
p'd ac ci  
Dickins  
in paro  
lielmus

Appeal of Murder at the *Old Bayly* in  
*London*, remov'd into the King's Bench ;  
 with great Variety of Pleadings, &c.

De Termino Sancti Hillar' Anno }  
 Reg' Dom' Caroli Secundi nunc } Ro' MDXXIV.  
 Regis Angl' &c. viceffimo quinto. } Henley.

London ff. **W**illielmus Scarlet nup de London  
 Gen attach' fuit p Corpus fuid  
 ad Respondens Carolo Dickinson Gen fratri &  
 heres Henrici Dickinson nup de London pdict Gen  
 de morte pdict Henrici Dickinson fratris fui unde  
 eid Appellat Et sunt pleg' de psequens scilicet  
 Thomas Baker & Richardus Howe Et unde idem  
 Carolus Dickinson p Egidium Hooper Attoz suum  
 jura formam Statut, &c. instant Appellat pdict  
 Willielmum Scarlet qui modo comparet de eo quod  
 ubi pdict Henr' Dickinson fuit in pace Dei & Domi  
 Regis nunc apud London pdict videlt in paroch'  
 Sancti Benedicti Paul's Wharfe in Warda de Castle-  
 Baynard decimo nono die Octobris Anno Regni  
 Domi Caroli secundi nunc Regis Angl. &c. viceff-  
 simo quinto circa horam Undecima ante meris es-  
 jusdem diei ibi scilicet apud London pdict in pa-  
 rochia & Warda pdict veni pdict Willielmus Scar-  
 let qui modo comparet felonice ac ut felo dicti Domi  
 Regis nunc ex malitia sua p cogitata & insult pme-  
 ditat contra pacem dicti Domi Regis nunc corom &  
 dignitat suas die & anno pdict in paroch' & Warda  
 p ac circa horam p vi & armis in & sup pstat Henr'  
 Dickinson adiunc & ibidem scilt apud London pdict  
 in paroch' & Warda pdict insult fecit & pdict Wil-  
 lielmus Scarlet cum quodam Gladio de ferro & chalybe

decimo nono die Octobris Anno Reg' Dom' nostri Caroli secundi dei Gra Angl. Scot. Franc. & Hiber. Regis fidei Defensor, &c. tricessimo quinto vi & armis, &c. apud London videlt in paroch' Sancti Benedict' Paulswharf in Warda de Castle Baynard London p'reb in & super quendam Henricum Dickinson in pace Dei & dicti Dom' Reg' advunc & ibid' existend' felonice voluntarie & ex malicia sua pre-cogitata insult fecit Et q'd p'reb Willielmus Scarlet advunc & ibidem cum quodam Gladio (Anglice vocat a Rapier) de Ferro & Chalybe confect valoris quinque solidorum quem ipse idem Willielmus Scarlet in manu sua dextra advunc & ibidem extract' habuit & tenuit p'sat Henricum Dickenson in & super dextram partem pectoris ipsius Henrici Dickinson paulo sub't dextram mamillam (Anglice Pap) ejusdem Henr' Dickinson advunc & ibidem violent' felonice voluntarie & ex malicia sua pre-cogitata percussit & inforavit dans eidem Henr. Dickenson advunc & ibidem cum Gladio p'dicto & super p'dictam dextram partem pectoris ipsius Henrici Dickinson paulo sub't dextram mamillam ejusdem Henrici Dickinson un' vulnus mortale latitudinis unius pollicis & profunditat' quinque pollicium de quo quidem vulnere mortale p'sat Henr. Dickinson advunc & ibidem instant' obiit Et sic Juratores p'd super Sacram' suum p'reb dicunt q'd p'dictus Willielmus Scarlet p'sat Henr. Dickinson dicto decimo nono die Octobris Anno vicessimo quinto supra dicto apud parochiam & Wardam p'reb modo & forma p'reb felonice voluntarie & ex malicia sua pre-cogitata interfecit & m'urd'avit contra pacem dicti Dom' Reg' nunc coron' & dignitat' suas, &c. per quod precept' fuit Vic' civitat' London q'd non omittant, &c. Quin taperent ipsum Willielmum Scarlet si, &c. ad respondendum, &c.

Appeal

Appeal  
Lon  
witDe Ter  
Regi  
Regi

London

ad Res  
hered' F  
de mort  
ed' Ap  
Thomas  
Carolus  
jurta fo  
Willielm  
ubi p'dic  
Regis  
Sancti M  
Baynard  
Dom' C  
simo qu  
jusdem  
rochia &  
let qui n  
Regis n  
dita' cor  
dignitat  
p'd ac cir  
Dickinso  
in paroc  
lielmusS



Appeal of Murder at the *Old Bayly* in  
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De Termino Sancti Hillar' Anno  
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London ff. **W**illielmus Scarlet nup de London  
 Gen' attach' fuit p Corpus suu  
 ad Respondend' Carolo Dickinson Gen' fratri &  
 heredi Henrici Dickinson nup de London p'dict Gen'  
 de morte p'dict Henrici Dickinson fratris sui unde  
 eid' Appellat Et sunt pleg' de psequend' scilicet  
 Thomas Baker & Richardus Howe Et unde idem  
 Carolus Dickinson p Egidium Hooper Attoz'n suum  
 iuxta formam Statut, &c. instant Appellat p'dict  
 Willielmum Scarlet qui modo comparet de eo quod  
 ubi p'dict Henr' Dickinson fuit in pace Dei & Domi  
 Regis nunc apud London p'dict videlt in paroch'  
 Sancti Benedicti Paul's Wharfe in Warda de Castle-  
 Baynard decimo nono die Octobris Anno Regni  
 Domi Caroli secundi nunc Regis Angl. &c. Viceffimo  
 quinto circa horam Undecimam ante merid' es  
 iisdem diei ibi scilicet apud London p'dict in pa-  
 rochia & Warda p'dict veni p'dict Willielmus Scar-  
 let qui modo comparet felonice ac ut felo dicti Domi  
 Regis nunc ex malitia sua p'ogitata & insult p'me-  
 ditat' contra pacem dicti Domi Regis nunc coroni &  
 dignitat' suas die & anno p'dict in paroch' & Warda  
 p'dict ac circa horam p'dict vi & armis in & sup p'sat Henr'  
 Dickinson adiunc & ibidem scilt apud London p'dict  
 in paroch' & Warda p'dict insult fecit & p'dict Wil-  
 lielmus Scarlet cum quodam Gladio de ferro & chalybe

ad valenc' quinqz solidoz' quem idem Willielmus Scar-  
 let in manu sua adtunc & ibidem habuit scilicet apud  
 London p'dict eodem decimo nono die Octobris An-  
 no Viceſimo quinto ſupradict circa horam undeci-  
 mam p'dict felonice voluntarie & ex malicia ſua pro-  
 gitaſ p'cuſſit & pupugit dans eidem Henrico Dickin-  
 ſon adtunc & ibidem ſcilicet apud London p'dict in  
 paroch' & Warda p'dict cum Gladio p'dict in & ſup  
 p'dict dextram partem corporis ipſius Henrici Dickin-  
 ſon ſub dextram mamillam (Anglice under the  
 right Pap) ipſius Henrici Dickinson unam plagam  
 Mortal' (Anglice one deadly Wound) longitudin'  
 dimid' unius pollic' & pfunditaſ quinqz pollicid' de  
 qua quidem plaga Mortal' idem Henricus Dickin-  
 ſon adtunc apud London p'dict in paroch' & Warda  
 p'dict inſtant' obiit Et ſic p'faſ Willielmus Scarlet  
 p'dict decimo nono die Octobris Anno ſupradicto apud  
 London p'dict in paroch' & Warda p'dict dictum Hen-  
 ricum Dickinson felonice voluntarie & ex malicia ſua  
 progitata modo & forma p'dict interfecit & Mordas-  
 vit contra pacem dicti Dom' Regis nunc corōn' &  
 dignitaſ ſuas Et quam cito idem Felo Feloniam &  
 Mordum p'dict in forma p'dict feciſſet idem felo fugit  
 p'dictuſqz Carolus ipſid' recent' inſecut' fuit de Villa  
 in Villam uſqz quatuor Villat' p'pinq'ior' & ulter-  
 rius quouſqz, &c. Et ſi idem Felo Feloniam &  
 Mordum p'dict ei in forma p'dict impoſit' velit de-  
 dicere p'dict Carolus Dickinson hoc parat' eſt verſus  
 eū pbare prout Cur', &c. Et p'dictus Willielmus  
 Scarlet in propz' plona ſua veni' & defend' vim &  
 injur' quando, &c. & omnem Feloniam & Mordum  
 & quicquid, &c. Et petit audium Brevis de Appello  
 & retorn' ejusdem Brevis & ei legunt in hec ver-  
 ba. N. Carolus Secundus Dei Gra' Angl' Scot'  
 Franc' & Hib' Rex fidei Defenſoz, &c. Vicecomitibus  
 London ſaluſ quia Carolus Dickinson Gen' frater &  
 heres

heres H  
 ſuo pſeq  
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 ſecundum  
 Angl' it  
 Sancti I  
 ſponden  
 Henrici  
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 bzis Ann  
 Virtute  
 fra nom  
 coram A  
 fraconte  
 Ar & Sa  
 auditis  
 Carolus  
 p'dict H  
 debet qu  
 pacis D  
 Guildha  
 tat die  
 Regni  
 Angl' S  
 &c. Wi  
 Paſore  
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 datoze  
 Peake  
 Juſtic  
 conſerva  
 & al' Pa  
 & termi  
 joznaſ  
 diem  
 ſis Dec

heres Henr' Dickinson fecit vos secur' de clamore  
suo psequend' ideo vobis pcepimus qd' attach' Wil-  
lielmum Scarlet nup' de London Gen' p' Corpus suu'  
secundum legem & consuetudinem Regni Nostri  
Angl' ita qd' eid' habeatis coram nobis in Curia  
Sancti Hillar' Wiltun' tunc fuer' in Angl' ad res-  
pondend' pfato Carolo Dickinson de morte p'dict'  
Henrici unde eid' appellat Et habeatis ibi tunc hoc  
breve E. me ipso apud Westm' septimo die Septem-  
bris Anno Regni nostri Vicesimo quinto. Layton.  
Virtute istius brevis nobis direct' cepimus Corpus in-  
fra nominat' Willielmi Scarlet cuius quidem corpus  
coram Dom' Rege infrascript' ad diem & locum in-  
frascript' parat' habemus Respons' Petri Daniel  
Ar' & Samuelis Dashwood Ar' Vic' Quibus lectis &  
auditis idem Willielmus Scarlet dic' quod p'dictus  
Carolus Dickinson Appellum suu' p'dict' de Morte  
p'dict' Henr' versus eid' here seu manutene're non  
debet quia dic' quod als scit Ad general' Session'  
pacis Dom' Regis tenet p' Civitat' London apud  
Guildhall ejusdem Civitat' ac infra eandem Civi-  
tat' die Lune scilicet decimo die Decembris Anno  
Regni Dom' Nostri Caroli secundi Dei Gra'  
Angl' Scot' Franc' & Hib' Regis fidei Defensor,  
&c. Vicesimo quinto coram Henr' Tulse Mil'  
Majore Civitat' London Thoma Jenner Mil' un' de  
Concilio dicti Dom' Regis erudit in lege & Recor-  
datoze ejusdem Civitat' Jacobo Smith Mil' & Johan'  
Peake Mil' Aldermannis dicti Civitat' ac al' locis suis  
Justic' dicti Dom' Regis ad pacem in Civitat' p'dict'  
conserband' necnon ad vberfas Felonias transgres-  
& al' Malefac' infra eandem Civitat' ppetrat' audiend'  
& terminand' Allig' General' Sessio ista pacis ad-  
jornat' fuit p' p'fat' Justic' dicti Dom' Regis usq'  
diem Mercurii scilicet duodecim' diem ejusdem men-  
sis Decembris Anno supradicto ad horam Septi-  
mam



nam ante merid̄ ejusdem diei apud Justicehall in le  
 Old Baily London in paroch' Sancti Sepulchri in  
 Warda de Farringdon extra London p̄dict tenens  
 coram p̄fat Justic' & al' sociis suis ad faciend̄ ulterius  
 put Cur' consideraver', &c. Ac sup̄inde p̄ quandam In-  
 quisitiō cap̄ ad eandem General' Session' pacis  
 dicti Dom̄ Regis tenet p̄ Civitatē London p̄ adorna-  
 ment' p̄dict apud Justice-hall p̄dict in paroch' &  
 Warda p̄dict dicto die Mercurii scilicet duodecimo  
 die Septembris Anno supradict' coram p̄fat Henr'  
 Tulse Mil' Pasore Civitat' London Willielmo Tur-  
 ner Mil' Willielmo Pritchard Mil' Aldermannis dīce  
 Civitat' London Thoma Jenner Mil' und de Con-  
 cilio Dom̄ Regis erudit in lege ac Recordatoze e-  
 jusdem Civitat' Jacobo Smith Mil' & Roberto Jef-  
 frey's Mil' al' Aldermān dīce Civitat' ac al' sociis  
 suis Justic' dicti Dom̄ Regis ad pacem in Civitatē  
 p̄dict conservand̄ necnon ad diversas Felonias  
 transgr' & al' Malefact' infra eandem Civitatē p̄pe-  
 rat' audiend̄ & terminand̄ Assign p̄ Sacram̄ Petri  
 Pickeringe, Johannis Johnson, Thomæ Barnes, Johan'  
 Harderet, Willielmi Hale, Henr' Kemp, Samuel  
 Leak, Matthæi Foley, Willielmi Fitzhughes, Doyley  
 Oyer, Thomæ Scisson' Humphredi Pooler, Josephi  
 Broomer, Henr' Robins, Georgii Richards, Jacobi  
 Carpenter & Roberti Legg p̄bor' & legalium hom̄  
 Civitat' London p̄dict adtunc & ibidem Jurat' &  
 onerat' fuer' ad inquirend̄ p̄ dicto Dom̄ Rege & Cor-  
 poze Civitat' p̄dict idem Willielmus Scarlet p̄ no-  
 men Willielmi Scarlet nup de London Gen̄ indicat'  
 fuit de p̄dicta Porte p̄dicti Henrici Dickinson qđ  
 quid Indictament' sequitur in hec verba ff. London  
 ff. Juratoz' p̄ Dom̄ Rege sup̄ Sacram̄ suum p̄sen-  
 tant quod Willielmus Scarlet nuper de London  
 Gen̄ Deum p̄ oculis suis non habens sed instigatione  
 Diabolica motus & seductus decimo nono die Octobr'  
 Anno

Anno W  
 Angl' So  
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 in paroc  
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 Henr' D  
 adtunc  
 licia sua  
 mus Sc  
 (Anglic  
 balozis  
 lec in m  
 & tenuit  
 partem  
 dextram  
 Henr' D  
 lunarie  
 rabit da  
 ad Glad  
 pectoris  
 mamilla  
 Porcat  
 pollicid  
 Henr' D  
 Juratoze  
 p̄dict Wil  
 decimo n  
 p̄dicto  
 p̄dict felo  
 tata inte  
 Regis nu  
 fuit Wic  
 &c. quin  
 responder  
 Gaule di  
 London a

Anno Regni Domini nostri Caroli secundi Dei Gra  
 Angl' Scot' Franc' & Hib' Regis fidei Defensor, &c.  
 viceſſimo quinto vi & armis, &c. apud London videt  
 in paroch' Sancti Benedicti Paul's-wharfe in Warda  
 de Castle-Baynard London p̄dict in & super quend  
 Henr' Dickinson in pace Dei & dicti Domini Regis  
 adtunc & ibidem existen felonice voluntarie & ex ma  
 licia sua p̄cogitat insult fecit & quod p̄dictus Williel  
 mus Scarlet adtunc & ibidem cum quodam Gladio  
 (Anglice vocat a Rapier) de ferro & chalybe confect  
 balois quinqz solidis quem ipse idem Willielmus Scar  
 let in manu sua dextra adtunc & ibidem extract habuit  
 & tenuit p̄fat Henr' Dickinson in & super dextram  
 partem pectoris ipsius Henrici Dickinson paulo sub  
 dextram mamillam (Anglice right Pap) ejusdem  
 Henr' Dickinson adtunc & ibidem violent felonice vo  
 luntarie & ex malicia sua p̄cogitata percussit & info  
 rabit dāns eidem Henr' Dickinson adtunc & ibidem  
 ad Gladio p̄dicto in & super p̄dictam dextram partem  
 pectoris ipsius Henr' Dickinson paulo sub dextram  
 mamillam ejusdem Henr' Dickinson Und vulnus  
 p̄ortat latitudinis un pollicis & p̄funditat quinqz  
 pollicid de quo quidem vulnere p̄ortat p̄refat  
 Henr' Dickinson adtunc & ibid instant obiit Et sic  
 Juratores p̄dict sup Sacram suum p̄es dicunt quod  
 p̄es Willielmus Scarlet p̄refat Henr' Dickinson dicto  
 decimo nono die Decobr Anno tricessimo quinto su  
 p̄radicto apud paroch' & Ward' p̄es modo & forma  
 p̄es felonice voluntarie & ex malicia sua p̄cogi  
 tata interfecit & Mordabit contra pacem dicti Domini  
 Regis nunc Coroz & Dignitat suas, &c. p̄ qd p̄cept  
 fuit Vic Civitat London p̄es quod non omittant,  
 &c. quin caperent ipsum Willielmum Scarlet &, &c. Ad  
 respondend, &c. Et qd postea scilicet ad deliberation  
 Gaole dicti Domini Regis de Newgate tenet p̄ Civitat  
 London apud Justice-hall in 12 Old-Baily, London in  
 paroch'

paroch' Sancti Sepulchri in Warda de Farringdon  
 tra London p̄d̄ die Mercurii scilicet decimo sexto  
 die Ianuar' Anno vicessimo quinto supradict' coram  
 p̄fatis Henr' Tulse Mil' Majoze Civitat' London  
 Georgio Jeffreys Mil' & Baronetto capital' Justic  
 dicti Dom' Regis ad placita coram ipso Rege tenend'  
 assign' Thoma Jones Mil' capital' Justic dicti Dom'  
 Regis de Banco Franc' Withers un' Justic dicti  
 Dom' Regis ad placita coram ipso Rege tenend'  
 assign' Jacobo Edwards Mil' & Willielmo Pritchard  
 Mil' Aldermanis dicte Civitat' & Thoma Jenner  
 Mil' un' de Consilio Dom' Regis erudit' in lege ac  
 Recordatore ejusdem Civitat' ac al' sociis suis Justic  
 dicti Dom' Regis ad Gaolam suam de Newgate de  
 prison in ea existend' deliberand' assign' p̄fatis Justic  
 dicti Dom' Regis ad pacem p' Civitat' p̄d̄ consen  
 suand' necnon ad diversas felonias transgr' & al'  
 malefacta infra eandem Civitat' perpetrata audiend'  
 & terminand' assign' per manus suas pro p' delibera  
 ver' Indictament' p̄dict' ill' de Gaol' deliberatione  
 p̄d̄ de Recordo Terminand', &c. super quo ad eand'  
 deliberatione Caple dicti Dom' Regis de Newgate  
 sent' pro Civitat' London apud Justice-hall p̄d̄ in  
 paroch' & Warda p̄d̄ die Mercurii scilicet decimo  
 sexto die Ianuar' Anno vicessimo quinto supradicto  
 coram p̄fatis Justic dicti Dom' Regis ad Gaolam  
 suam de Newgate de prison in eadem existend' deli  
 berand' assign' veniebat p̄dict' Willielmus Scarlet  
 sub Custod' Petri Daniel Ar' & Samuelis Dashwood  
 Ar' Uic' Civitat' p̄d̄ in quor' Custod' p̄eantea ex  
 causa p̄d̄ & certis al' de causis p̄d̄ Willielmus  
 Scarlet commissus fuit Et statim p̄d̄ Willielmus Scar  
 let ad Barram ibidem duct' p' p̄fatis Uic' ad de p̄e  
 missis ei superius per Indictament' p̄dict' impossi  
 ble quous qualif' se vellet inde acquietari tunc dixit  
 quod ipse in nullo fuit inde culpabilis & inde de

bono

bono &  
 Wagsta  
 qui pro  
 milititer  
 ad hoc  
 Bernar  
 Samuel  
 mas M  
 son, C  
 tract  
 etri tri  
 quod p  
 lis de  
 el impo  
 allegat  
 ibidem  
 tunc di  
 bilis de  
 tiend' p  
 nomin  
 ment  
 Williel  
 p' ipso  
 & per p  
 seu Ca  
 Potit  
 pleno  
 ejusde  
 deliber  
 Londo  
 idem v  
 judic  
 ipse ib  
 ad ean  
 promo  
 ad lib



bono & malo posuit se super patriam Et Willielmus  
Wagstaffe Ar communis Clericus Curat Londoni  
qui pro dicto Dom Rege in hac parte sequit si-  
militer &c. Et Juratores Jure p[re]d p[re]fat Wic  
ad hoc retornat & impannellat (viz.) Jacob Wood,  
Bernardus Mimes, Edwardus Alder, Thomas Jenney,  
Samuel Haubey, Kenel Smith, Conisby Cave, Tho-  
mas Metcalf, Matheus Walker, Alexander Polling-  
ton, Daniel Rawlinson & Stephanus Humphreys  
exact vener qui ad veritat de p[re]missis dicend  
elei triati & Jurat tunc dixer super Sacram suum  
quod p[re]dictus Willielmus Scarlet non fuit culpabi-  
lis de Murdero p[re]d in Indictament p[re]d specificat  
et imposu p[ro]ut idem Willielmus Scarlet p[re]dicand  
allegabit nec ea Occasione se unquam retraxit sed  
idem Jur p[re]d super Sacram suum p[re]d ulterius  
tunc dixer quod p[re]d Willielmus Scarlet fuit culpa-  
bilis de feloniam & Homicid tant p[ro] felonice interfi-  
ciend p[re]fat Henr Dickinson in Indictamento p[re]d  
nominat et imposu modo & forma p[ro]ut per Indicta-  
ment p[re]d versus eund supponebat Et quod idem  
Willielmus Scarlet tempore Feloni & Homicid p[re]d  
p[er] ipsu Willielmum Scarlet in forma p[re]d commiss  
& perpetrat seu unqu postea non habuit aliqua bona  
seu Catalla terr sive tenet infra Civitat London ad  
Notitiam eorund Jur p[ro]ut p[er] Record inde in suis  
pleno roboze & effectu modo existent & int Record  
ejusdem Gaule deliberation coram Justic Gaule  
deliberation de Newgate p[ro] Civitat London apud  
London p[re]d remanen int al plenius Apparet. Et  
idem Willielmus Scarlet ulterius dic quod nullum  
judic de & super p[re]missis adhuc redit existit & quod  
ipse ibidem tunc fuit & est Cler & ad tunc & ibidem  
ad eandem Gaule deliberation coram Justic ulterius  
promovat parat fuit legere ut Cler si Cur ill eund  
ad lib suum in ea parte admittere vellet & ad-  
huc

huc in Barr' alicuius Iudicii mortis super convictione  
homicidii p[re]s[ent] parat est legere ut Cler' Et hoc pa-  
rat est verificare unde p[er] Iudiciu[m] si p[re]dictus Ca-  
rolus Dickinson Appellum suum p[re]s[ent] versus e[um]  
de morte p[re]s[ent] Henr' Dickinson here seu manutene-  
re debeat &c. Et cum hoc quod idem Willielmus  
Scarlet modo Appellat & p[re]dictus Willielmus Scar-  
let superius in Iudicamento p[re]s[ent] nominat in forma  
p[re]s[ent] Convicti sunt un[de] eademq[ue] persona & non al-  
neque divers' Et quod Henricus Dickinson de cu-  
jus morte ipse idem Willielmus Scarlet modo appella-  
t[us] existit & p[re]s[ent] Henr' Dickinson in Iudicament[um]  
p[ro] nominat & p[er]cussus morte idem Willielmus Scarlet  
in forma p[re]s[ent] Convicti existit sunt un[de] & eadem  
persona & non alia neq[ue] divers' & quod plaga de qua  
in Appello p[re]dict[us] supponit ipsum Henr' Dickinson  
mortuum fuisse sunt un[de] & eadem plaga Mortal[is] &  
non al[ia] neq[ue] divers' Et petit de p[re]missis allocu-  
tionem, &c. Et quoad Feloniam & Murd[er] p[re]dict[us] idem  
Willielmus Scarlet dicit quod ipse in nullo est inde  
culpabilis Et inde de bono & malo ponit se sup-  
patriam & p[re]dictus Carolus Dickinson inde similit[er],  
&c.

Et p[re]s[ent] Carolus Dickinson quoad placitum p[re]s[ent]  
p[re]dicti Willielmi Scarlet de Convictione p[re]s[ent] modo  
& forma p[re]s[ent] superius placitando placitat dic[ens] q[uo]d ipse  
Carolus p[er] aliqua p[ro]p[ri]a Willielmum Scarlet p[re]allegat ab  
Appel suo p[ro] h[ab]ere p[re]cludi non debet quia dicit q[uo]d pla-  
citum p[re]s[ent] unde p[er] ipsum Willielmum Scarlet modo  
& forma p[re]s[ent] inde in Barram Appelli p[re]dicti supe-  
rius placitando placitat materiaq[ue] in eadem content[is]  
non sufficiens in lege existunt Ad quod quid placit-  
um idem Carolus necesse non habet nec p[er] legem tre  
aliquali[ter] respondere tenetur unde p[ro] defectu suffi-  
cient[is] respons[us] in hac parte idem Carolus p[er] Iudiciu[m]  
&

Exec  
super p[re]s[ent]  
Et p[re]s[ent]  
Caroli  
rat dic[ens]  
placit[us] n[on]  
lege exi-  
lo suo p[ro]  
p[re]cluden-  
quidem  
Willielm  
Cur, &c.  
ill[is] non  
idem W  
p[re]dictus  
versus i  
&c. Et  
suo de &  
inde dat[us]  
a die p[re]s[ent]  
quod Cu  
Et quoa  
pius jun  
ria in Ju  
modo ter  
lielmus  
Corn[elius] S  
street L  
ead' Hab  
Corn[elius] M  
manucep  
cozam di  
de die in  
p[re]dict[us] C  
cozam D  
Carolus

Executionem versus eundem Willielmum Scarlet de & super pmissis fieri, &c.

Et predictus Willielmus Scarlet quoad placitum ipsius Caroli Dickinson de Convictione predicta superius placitata dicit quod placitum illud modo & forma predicta superius placitum materiamque in eas contentam bonam & sufficientem in lege existit ad predictum Carolum Dickinson ab Appello suo predicto versus ipsum Willielmum Scarlet habendum precludendum & ad appellum illud penitus evacuant quod quidem placitum materiamque in eodem contentam idem Willielmus Scarlet parat est verificare & probare per Curiam, &c. Et quia predictus Carolus Dickinson ad placitum ipsum non respondit nec ipsum hucusque aliquantulum dedecit idem Willielmus Scarlet ut prius per Iudicium & quod predictus Carolus Dickinson ab Appello suo predicto versus ipsum Willielmum Scarlet habendum precludat, &c. Et quia Curia dicti Domini Regis hic de Iudicio suo de & super pmissis reddendum nondum advisat dies inde datus est partibus predictis coram dicto Domino Rege a die Pasche in quindecim dies Ubicumque, &c. eo quod Curia dicti Domini Regis hic inde nondum, &c. Et quoad triandum existit predictum inter partes predictas superius junctum cesset inde processus quousque predicta materia in Iudicio Curie in forma predicta placitata aliquo modo terminetur, &c. Et super hoc Willelmus predictus Willielmus Scarlet & Thomas Scarlet de Eastbourn in Comitu Suffex Willelmus predictus Samuel Newington de Fleetstreet London Woolendraper Jacobus Reddish de eadem Haberdasher & Henricus Lord de Westmin' in Comitu Middlesex, Bookseller in prope personis suis & manuceperunt ad habendum Corpus predictum Willielmi Scarlet coram dicto Domino Rege ad eundem Terminum Et sic de die in diem quousque, &c. quilibet Manucaptorum predictorum Corpus pro corpore, &c. Ad quem diem coram Domino Rege apud Westmin' Willelmus tam predictus Carolus Dickinson pro Attozibus suis predictum quam



predictus Willielmus Scarlet in ppe' psona sua Et  
 quia Cur' dicti Dom' Regis hic de Iudicio suo de  
 & super materia p'dict' in Iudicium Cur' in forma  
 p'dict' placitat' nondum advisat' dies ulterius inde  
 dat' est partibus p'dictis in statu quo nunc coram  
 eodem Dom' Rege usq' in Cras' Sancte Tri-  
 nitat' ubicunq' &c. de Iudicio suo inde audiend' eo  
 quod Cur' dicti Dom' Regis hic inde nondum, &c. Idem dies  
 dat' est p'fat' Willielmo Scarlet p' Balli-  
 um quo prius, &c. Et quoad triand' Cris' p'dict'  
 superius in forma p'dicta' junct' cesset inde process'  
 quousque eadem materia in lege aliquo legiti-  
 mo modo terminetur, &c. Ad quem diem coram  
 Dom' Rege apud Westm' veni' tam predictus Caro-  
 lus Dickinson per Attoz' suum p'dict' quam  
 p'dict' Willielmus Scarlet in p'p'et' persona sua  
 Et quia Cur' dicti Dom' Regis hic de Iudicio  
 suo de & super materia p'dicta' in Iudicium  
 Cur' in forma p'dicta' placitat' nondum advisat'  
 dies ulterius inde dat' est partibus p'dictis in  
 statu quo nunc coram eodem Dom' Rege usque  
 a die Sancti Mich. in tres Septimanas ubicunq'  
 &c. de Iudicio suo inde audiend' eo quod Cur'  
 dicti Dom' Regis hic inde nondum, &c. Idem dies  
 dat' est p'fat' Willielmo Scarlet per Ballium quo  
 prius, &c. Et quoad triand' Cris' p'dicta' superius  
 in forma p'dicta' junct' cesset inde process' quousq'  
 eadem materia in lege aliquo legitimo modo ter-  
 minetur, &c.

A De-

A  
 Gen  
 unde  
 pellat  
 sexto  
 tercio  
 diei a  
 dict' J  
 A. B.  
 propri  
 process  
 p'dicta  
 appell  
 contra  
 suas C  
 solidor  
 tunc &  
 percuss  
 A. B.  
 quem  
 R. sup  
 aliam  
 mortu  
 suprad  
 Drob  
 cimo d  
 p'fat  
 & si d  
 illat  
 plaga  
 G. H. p

A Declaration in Appeal of Murder.

**A** B. & C. D. attach' fuer' per Corpora sua ad respondend' K. E. que fuit uxor R. E. Gen' de, &c. nuper viri sui unde eos appellat, &c. Et unde eadem K. in propr' persona sua instant' appellat p'res A. B. & C. D. de eo quod ubi p'res, &c. sexto die Octobris Anno Regni Dom' Regis nunc tertio circa horam decimam ante meridiem ejusdem diei apud, &c. in Com' p'res fuit in pace Dei & dict' Dom' Regis nunc ibi venerunt tam p'dicti A. B. & C. D. qui p'sentes sunt hic in Cur' in propriis personis suis quam E. F. & G. H. qui p' processum in Cur' Regis hic utlagat' existunt quos p'dicta K. de morte p'dicti R. nuper viri sui similiter appellaret si hic p'sent' essent felonice ut felones contra pacem dict' Dom' Regis coronam & dignitat' suas Et p'dictus E. F. cum quodam Gladio p'cii trium solidor' quem idem E. F. in manu sua dextra ad tunc & ibidem tenuit p'sat' R. super caput suum percussit dans ei unam plagam mortalem & p'dict' A. B. cum quodam alio Gladio p'cii quinque solidor' quem idem A. B. in manu sua dextra tenuit p'res R. super femur suum sinistrum vulneravit dans ei aliam plagam mortalem de quibus quidem plagis mortali' p'dictus R. p'dicto sexto die Octobris Anno supradict' usque decimum diem ejusdem Mensis Octobris apud, &c. p'res languebat quo quidem decimo die Octobris p'res R. de plaga p'res ei per p'sat' E. F. ut p'sertur illat' apud, &c. p'dict' obit & si de p'res plaga ei per p'sat' A. B. ut p'sert' illat' ad tunc & ibidem non obtisset de p'res plaga ei per p'sat' A. B. obtisset & p'dict' C. D. & G. H. p'dict' sexto die Octobris Anno tertio supradict' apud,

apud, &c. p̄d̄ p̄dicto tempore felonie & m̄rd̄i  
 p̄d̄ fuerunt plenes abettantes manutene[n]d̄ p̄ro-  
 curat̄ indigantes auxiliantes comp̄ercutientes &  
 confortant̄ p̄d̄ E. F. & A. B. ad feloniam & m̄rd̄-  
 dzum p̄d̄ in forma p̄d̄ faciend̄ & p̄petrand̄ Et  
 sic p̄d̄ E. F. A. B. C. D. & G. H. p̄fat̄ R. E.  
 p̄dicto sexto die Octobris Anno hora loco & Com'  
 p̄d̄ ac modo & forma p̄d̄ felonice interfecerunt  
 & m̄rd̄zaverunt contra pacem dict̄ Dom' Regis  
 coronam & dignitatem suas Et quam cito p̄d̄  
 E. F. A. B. C. D. & G. H. feloniam & m̄rd̄zum  
 p̄d̄ in forma p̄d̄ fecissent suggerunt eademque  
 K. ipsos recenter insecut̄ fuit de villa in villam usq[ue]  
 quatuor villas p̄p̄inquiores & ulterius quousque,  
 &c. Et si p̄d̄ E. F. & A. B. &c. feloniam & m̄rd̄-  
 dzum p̄d̄ eis in forma p̄d̄ impos̄it velint dedi-  
 cere p̄dicta K. hoc parat̄ est versus eos probare  
 p̄out Cur', &c. Et p̄dicti E. F. & A. B. in p̄p̄riis  
 perionis suis veni & defend̄ b̄m & injur' quando,  
 &c. & totum, &c. & quicquid, &c. contra pacem, &c.  
 necnon omnia feloniam & m̄rd̄zum, &c. Et separatim  
 p̄f̄ audis̄ b̄vebis original̄ p̄dict̄ K. & eis legitur  
 in hec verba Georgius Dei Ḡd̄, &c. Wic' Gloucester  
 salutem si K. E. que fuit ux̄or R. E. fecerit te  
 secur' de clamore suo p̄ros' tunc attachias F. F.  
 A. B. C. D. & G. H. per Corpora eorum ita qđ  
 eos habeas coram Justic' nostris magne session̄ no-  
 stre Com' tui apud, &c. in Com' tuo die Jovis  
 videl̄t vicessimo secundo die Augusti p̄xor' futur'  
 at respondend̄ p̄fat̄ K. de morte p̄d̄ R. quondam  
 viri sui unde eos appellat ut dic' & habeas ibi no-  
 mina p̄leg' & hoc b̄vebe Teste nobis ipsis apud, &c.  
 quarto die Junii Anno Regni nostri tertio. Quibus  
 lect̄ & audis̄ iidem E. F. & A. B. p̄f̄ audis̄ res-  
 tornd̄ ejusdem b̄vebis & eis legitur in hec verba  
 p̄leg' de p̄sequend̄ Johannes Doe & Richardus Roe  
 intransnominat̄ E. F. A. B. C. D. & G. H. non sunt  
 inventi

inber  
 liba  
 possu  
 infra  
 Wic  
 bis si  
 bus &  
 ad ma  
 K. p  
 Percu  
 haben  
 quem  
 in p  
 dem d  
 sequen  
 in pp  
 b̄vebi  
 p̄dicta  
 b̄vebe  
 in leg  
 b̄vebe  
 clam'  
 die, &

Ar

A.  
 nuper  
 in custo  
 Farran  
 nuper  
 Anno,  
 rans &  
 loco voc  
 vener' p



inbenti nec eorum aliquis non est inbentus in Bal-  
liba mea ita qđ eos aut aliquem eorum habere  
possum ad diem & locum infrascript coram Justie  
infrascript pꝛous interius mihi pꝛcipitur J. W. Ar  
Tic Quibus lect & audit iidem E. F. & A. B. sal-  
vis sibi omnibus & omnimodis advantag' exceptioni-  
bus & allegationibus tam ad breve & retornd quam  
ad narrationem & appellum pꝛed ex assensu pꝛed  
K. pꝛet licentiam inde interloquend usque diem  
Mercurii in pꝛor' session, & ubicunque, & &  
habent, &c. Idem dies dat est pꝛat K. &c. Ad  
quem diem hic scilicet apud, &c. in Com' pꝛed  
in pꝛicta prima magna session ibidem tenē eo-  
dem die Mercurii, viz. septimo die, &c. tunc pꝛor'  
sequend vñ tam pꝛo K. E. quam pꝛo E. F. & A. B.  
in pꝛiis pꝛonis snis & super hoc visis & auditis  
brevi pꝛicto & Narratione sup eodem brevi in forma  
pꝛicta fact & plenius intellect videtur Cur' hic  
breve illud pluribus de Causis fore insufficiens  
in lege ideo cons' est qđ pꝛed K. nihil capiat p  
breve suum pꝛictum sed sit in misericordia p falso  
clam' suo & quod E. F. & A. B. eant inde sine  
die, &c.

An Appeal of Murder brought by a  
Woman.

**A**. B. vidua nuper uxor L. B. de, &c. in pꝛo-  
pria persona sua instanter appellat C. D.  
nuper de, &c. in Com' pꝛed & E. F. nuper de, &c.  
in custod G. H. Ar Tūc Com' pꝛed existend & ad  
Harram duct in pꝛopria persona sua de morte L.  
nuper viri sui de eo quod ubi idem L. B. die &  
Anno, &c. fuit in pace Dei & dicti Dom' Reg' ope-  
rans & laborans in terr' M. W. Mī in quodam  
loco vocat a Coal-Mine apud, &c. in Com' pꝛed ibi  
vener pꝛed C. D. & E. F. ut Felones dicti Dom'  
Reg'

Reg' & ex insultu & malitia premeditata ac ad intentionem preb L. B. de bonis & denariis suis depredand & spoliand in eundem L. B. preb die & Anno supradict circa horam, &c. vi & armis, viz. cum Baculis & Culcellis apud, &c. preb in p'dicto loco insultum fecer' & eundem L. B. adtunc & ibid felonice & voluntarie interfecer' & murtherer' & eundem L. sic interfect abinde incontinenter asportaver' usque quendam boscum vocat, &c. distant a p'dicto loco circa decem perticat existend in paroch' de, &c. in eodem Comd ac ipsum ibidem in silvestr loco umbr absconderunt & profecer' ac guttur suum adtunc & ibidem sciderunt contra pacem dicti Dom' Reg' nunc coronam & dignitatem suas Et quam cito iidem felones feloniam & murtherum preb fecissent fugierunt Et preb A. B. recent' insecut' fuit de villa in villam usque quatuor villas p'pinq'iores & ulterius quousque, &c. Et si p'd C. D. & E. F. feloniam & murtherum p'd in forma p'd fact' deducere velint tunc p'dict' A. B. parat' est feloniam & murtherum preb versus eos pbare prout Cur' hic cons' inveni' pleg' de prosequend appellum illud, viz. J. K. & L. M. &c.

### An Appeal of Mayhem.

**A**. B. in propr' persona sua appellat C. D. de, &c. in Comd, &c. de eo qd ubi idem A. B. fuit in pace Dei & Dom' Reg' nunc apud, &c. in Com' preb die & Anno, &c. circa horam, &c. post meridiem ejusdem diei ubi venit preb C. D. felonice ut felo dicti Dom' Reg' insidiand insultum p'meditat' contra pacem dicti Dom' Reg' nunc coronam & dignitatem suas die Anno hora villa & comitat' preb cum quadam sagitta sagittabit p'efat' A. B. in genu sinistro per qd ven' & nervi ejusdem genu

genu  
mah  
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**A**  
Dom  
unde  
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quem  
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chii su  
& duo  
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hemab  
dignita  
& mah  
ipsum  
usque  
felonia

genu totallit exsiccat fuerunt Et sic ipsum felonice  
mahemiavit Et quam cito idem felo feloniam p[re]b  
fecisset fugit Et q[uo]d p[re]b A. B. recent[er] insecut[us] fuit  
de villa in villam usque quatuor villas p[ro]p[ri]as  
quiores & ulterius quousque, &c. Et si p[re]b C. D.  
feloniam & mahemium p[re]dict[us] in forma p[re]b fact[us]  
dedicere velit tunc p[re]b A. B. parat[us] est feloniam &  
mahemium p[re]b versus eum probare prout Cur[ia] hic  
consideraverit inven[ire] pleg[um], &c.

Narr[atio] in Appello Mahem[is].

**A.** B. attachiat[us] fuit p[er] Corpus suum ad respon-  
dend[um] C. D. de mahemio ipsius C. & pace  
Dom[ini] Reg[is] nunc fract[us] unde eum appellat, &c. Et  
unde idem C. D. in p[ro]p[ri]a persona sua instanter  
appellat p[re]b A. B. de eo q[uo]d cum idem C. D. tali  
die & anno fuit in pace Dei & dict[us] Dom[us] Reg[is]  
apud, &c. in Com[uni] p[re]b ibidem ven[ire] p[re]dictus A. B.  
ut felo dict[us] Dom[us] Reg[is] insidiando & vi & ar-  
mis, viz. Gladiis & Baculis ex insultu p[re]meditat[us]  
in p[re]b C. D. adtunc & ibidem insultum fecit &  
p[re]b A. B. cum uno Gladio p[re]cis decem solidorum  
quem idem A. B. in manu sua dextra adtunc & ibi-  
dem tenuit p[re]f[atus] C. D. super brachium suum sin-  
istrum felonice percussit per quod vene & nervi bra-  
chii sui p[re]dicti restricti & sicci debenerunt & pollex  
& duo digiti sinistre manus ipsius C. H. mortifi-  
cati debenerunt & sic p[re]b A. B. die & Anno su-  
p[re]dictis apud, &c. p[re]b ipsum C. D. felonice Ma-  
hemavit contra pacem dicti Dom[ini] Reg[is] coronam &  
dignitatem suas Et quam cito p[re]b A. B. feloniam  
& mahemium p[re]b fecisset fugiebat idemque C. D.  
ipsum A. B. recent[er] insecut[us] fuit de villa in villam  
usque quatuor villas p[ro]p[ri]as quiores Et si p[re]b A. B.  
feloniam & mahemium p[re]b velit dedicere idem



C. D. parat est hoc versus eum probare prout Cur  
hic cons', &c.

Placitat'  
son assault,  
&c.

Et p'dicta A. B. in ppria p'sona sua veni & defend  
vim & injur' quando, &c. quicquid quod est contra  
pacem, &c. & omnem feloniam, &c. & quoad venire  
vi & armis dic' qd' ipse in nullo est culpabilis & de hoc  
poni se super pacem Et p'dictus A. B. dic' qd' p'd  
C. D. Appellum suum p'dictum versus eum habere  
non debet quia dic' qd' p'res C. D. die & Anno su  
p'adict' apud, &c. p'res in ipsum A. B. insultum fe  
cit & ipsum verberasse vulnerasse & maletractasse vo  
luisse per quod idem A. B. erga p'fat' C. D. ad  
tunc & ibidem se defend' & sic idem A. B. dic' si quod  
dampnum vel malum p'fat' C. D. adtunc & ibidem  
evenit hoc fuit ex insultu ipsius C. D. proprio & in  
defensione ipsius A. B. & hoc parat est verificare  
unde pet' judicium si p'res C. D. Appellum suum  
p'res versus eum habere debeat Et p'res C. D. dic'  
qd' ipse p' aliqua p'allegat ab appello suo p'dict' ha  
bens p'cludi non debet quia dic' qd' p'dictus A. B.  
p'dicto die, &c. p'dict' insultum fecit & ipsum C. D.  
adtunc & ibidem felonice mahemavit contra pacem  
dict' Dom' Reg' nunc prout ipse superius eum ap  
pellavit & p'cept' est vic' quod, &c. quia tam, &c.  
Et super hoc E. F. & G. D. de, &c. veni in propr' per  
sonis suis & manuceperunt habend' corpus p'd A. B.  
ad p'fat' diem, &c. ubicunque, &c. uterque eorum  
corpus pro corpore, &c.

### An Appeal for cutting out a Man's Tongue.

A. B. in propria persona sua instanter appellat  
C. D. de amputatione lingue ipsius A. B.  
& pace Dom' Reg' fract' pro eo, viz. qd' cum per  
quoddam statutum in Parlamento Henrici quart'  
Reg' Angl. Anno Reg' sui quinto apud Westm'  
tent' ordinat' sit qd' Malefactores qui linguas homi  
num

num  
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&c. in  
A. B. f  
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C. D.  
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&c. An  
consent  
legis fo  
cito, &c  
dedicere  
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num amputarent vel oculos eruerent ligozum  
 Dorn Reg' hoc debet probato & comperto qd tale  
 factum ex malitia p̄cogitata fuit p̄petrat penam fe-  
 lonū incurrerent prout in statuto p̄dict plenius con-  
 tinetur ac ubi p̄dict A. B. fuit in pace Dei & dict  
 Dorn Reg' nunc apud, &c. in Com p̄dict die &  
 Anno, &c. circa horam, &c. ibi venit p̄dict C. D.  
 felonice ut felo Dorn Reg' insidiand & insultum  
 p̄meditans contra pacem dicti Dorn Reg' Coronam  
 & dignitatem suas die anno hora loco & Com p̄dict  
 & cum quodam cultello quem ipse tenuit in manu  
 sua dextra linguam ipsius A. B. felonice amputabit  
 & quam cito, &c. quousque, &c. Et si, &c. p̄dict A. B.  
 parat est versus eum probare prout Cur, &c.

An Appeal for Rape.

**A**. B. de, &c. in propria persona sua iuxta for-  
 mam statuti in Parlamento Dorn Richardi  
 Reg' Angliæ secundi apud Westm Anno Regni sui  
 sexto tenet edict instanter appellat C. D. nuper de,  
 &c. in p̄sona, &c. de eo quod ubi M. uxor p̄dict  
 A. B. fuit in pace Dei & Dorn Reg' nunc apud, &c.  
 die & Anno, &c. circa horam, &c. ibi venit p̄dict  
 C. D. felonice ut felo Dorn Reg' nunc insidiand  
 & insultum p̄cogitans contra pacem dicti Dorn Reg'  
 nunc coronam & dignitat suas die Anno hora loco &  
 Com p̄dict & p̄dict C. D. adtunc & ibidem p̄dict  
 M. B. felonice rapuit & cum ea adtunc & ibidem  
 carnaliter concubuit & eadem M. eidem C. D. post  
 Raptum p̄dict in forma p̄dict p̄petrat scilicet die,  
 &c. Anno Regni, &c. de p̄petratione ejusdem rapt  
 consentivit & eum p̄ eodem Raptu iuxta debitam  
 legis formam punire omnino recusabit Et quam  
 cito, &c. Et si idem C. D. felonū & rapt p̄dict velit  
 dedicere p̄dict A. B. hoc parat est versus eum p̄bare  
 prout Cur, &c.

Aliter.

**A.** B. in propria persona sua instanter Appellat C. D. &c. in persona, &c. iuxta formam statuti in Parlamento Domini Richardi Regis Anglie secundi Anno Regni sui sexto tenet edit de eo, viz. quod idem C. D. die & Anno, &c. apud, &c. in Comitiis pater M. uxorem pater A. felonice rapuit & eam carnaliter cognovit contra formam statuti predicti, &c. Et quam cito, &c. prout Curia, &c.

Aliter.

**A.** B. de sanguine M. B. filii & heredi T. B. jam defuncti scilicet frater predicti T. B. patris pater M. rapit in propria persona sua instanti appellat C. D. de, &c. in Comitiis, &c. in custodia Marci Marese Domini Regis iuxta formam statuti Domini Richardi, &c. edit de rapui pater M. B. & pace Domini Regis nunc fracti de eo quod ubi pater M. fuit in pace Dei & dicti Domini Regis nunc apud, &c. die & Anno, &c. circa horam, &c. ubi venit pater C. D. felonice ut felo Domini Regis nunc insidiando & insultum premeditatur contra pacem dicti Domini Regis coronam & dignitatem suas die Anno loco & hora pater M. B. felonice rapuit contra formam statuti predicti, &c. Et quam cito, &c. Et si idem C. H. felonice & rapit pater velit dedicere, &c. prout Curia, &c.

### An Appeal of Robbery.

**A.** B. de, &c. in Comitiis predicti in propria persona sua instanti appellat C. D. in Custodia Marci Marese Domini Regis coram ipso Domini Regis existendo de eo quod idem A. B. fuit in pace Dei & dicti Domini Regis nunc apud, &c. in Comitiis predicti die Lune, &c. Anno, &c. Et predictus C. D. felonice ut felo dicti Domini Regis nunc insidiando & insultum premeditatur contra pacem dicti Domini Regis nunc coronam & dignitatem suas die Anno hora loco & Comitiis predicti bona &

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Catalla ipsius A. B. viz. decem bidentes pecti  
sex librar' adtunc & ibidem invent' felonice furat'  
fuit & quam cito idem C. D. feloniam & Roberiam p'd  
fecisset fugam fecit dictus A. B. ipsum recent' inse-  
cutus fuit de villa in villam usque quatuor vill' pro-  
pinquiores & ulterius quousque, &c. Et si idem  
C. D. feloniam p'ed velit dedicere p'ed A. B. hoc  
parat' est versus eum p'bare prout Cur', &c.

Et p'ed C. D. in propria persona sua in Custod  
&c. ad Warram ductus veni' & defend' omnem fe-  
lon' & quicquid, &c. Et die q'd ipse in nullo est  
culpabilis de Roberia & feloniam p'ed prout p'ed  
A. B. superius appellavit & de hoc pond' se de bona  
& malo super patriam. Et p'ed A. B. similiter Ideo  
capiat' inde inter eos iurium & iur' veni' qui ad hoc  
electi triari & iurati die super Sacram' suum quod  
p'd C. D. est culpabilis de feloniam & Roberia p'ed  
prout A. eum superius appellavit & quod null' ha-  
bet terras tenementa bona neque Catalla iur' p'ed  
questi si p'ed C. D. capt' fuit ad recentem sectam  
ipsius A. B. qui die q'd sit Ideo cons' est quod p'ed  
C. D. suspendat', &c. Et q'd p'ed A. B. rehebeat  
Catalla p'ed, &c.

Placita &  
Judic'. rō  
be hang'd.

I am now proceeding to the Conclusion of my  
Treatise, and have nothing further to communi-  
cate, but a few Observations relating to Trials of  
Peers, Judgment, &c.

Though a Peer and Lord of Parliament is to be  
tried by his Peers, viz. *per iudicium parium suorum*,  
on Indictment for Murder, Treason, &c. and No-  
blemen of Ireland, France, &c. Sons of Dukes,  
Earls, &c. by Knights, Esquires, and other chief  
Commoners, at the Suit of the King; yet if an  
Appeal of Murder be brought against a Nobleman,  
he shall not be tried by his Peers, but by a com-  
mon

*Trials of  
Peers,  
Judgment,  
&c.*

mon Jury of twelve Men; for this is the Suit of the Party, and not the King, and an Appeal of this Nature cannot be brought before the Lord High Steward of *England*. 2 *Inst.* 49. 3 *Inst.* 30.

The Judgment pronounced for Murder, Felony, &c. is for the Criminal to be hang'd by the Neck until he is Dead; *quod suspendatur per Collum quousque mortuus fuerit*. *Braët.* lib. 3. fo. 104. And the Execution must be according to the Judgment, as I have already observ'd, *Ea quæ in Curia nostra rite acta sunt, debitæ executioni demandari debent*. But there are some Instances in our Law-Books, wherein the contrary has been allow'd, with relation to Peers; for my Lord *Hungerford* in 32 *H.* 8. had Judgment to be hang'd, and was beheaded on *Tower-Hill*; The Duke of *Somerset* *Anno* 5. *Ed.* 6. was sentenced to be hanged by the Neck till he was Dead, on an Attainder of Felony, and was likewise beheaded: Tho' the Lord *Dacres* *Anno* 33 *H.* 8. was hanged at *Tyburn* for Murder, pursuant to the Judgment pass'd upon him, as was also the Lord *Stourton* for the same Crime, 3 and 4, *Pb.* and *M.* And by this it appears that the Law has a greater Regard to Murder, than other Crimes in their Nature less heinous.

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The Appeal of Murder brought by *Henry Young* against *Christopher Slaterford* for the Murder of his Sister, tried at the King's Bench Bar, where the Defendant was convicted, and afterwards executed at *Guilford*. *Anno 8vo Anna Reginae, 1709.*

Surr' ff. **M**emozand qđ die Mercur' p' post Quin-  
den Pasche isto eodem termino coram  
Dom' Reg' apud Westm. veid Henricus Young de  
Hartfeild in Com' Suffex frater & heres Jaræ Young  
Spinster sororis sue nup defunct in p'p' pson' sua  
Et p'ulit in Cur' dicte Dom' Reg' tunc ibid' quand'  
William suam versus Christopherum Slaterford  
als Slaughterford de Shalford in Com' Surrey p'dict'  
Bastator in Custod' Mar', &c. de Morte p'dict' Jaræ  
quond' sororis ipsius Henr' unde et appellat, Et  
sunt pleg' de ps' scilicet Willielmus Godfrey de  
Godalming in Com' Surrey Gen' & Henricus Young  
de Kirdford in Com' Suffex Husbandman Que qui-  
dem billa sequitur in hec verba ff. Surrey ff. Hen-  
ricus Young de Hartfeild in Com' Suffex Frater  
& heres Jaræ Young sororis sue nup defunct in p'p'  
pson' sua instant appellat Christopherum Slater-  
ford als Slaughterford de Shalford in Com' Surrey  
p'dict' Bastator in Custod' Mar' Parese Dom'  
Reg' coram ipsa Reg' existend de eo quod ubi p'fat'  
Jana soror ipsius Henrici fuit in Pace Dei & dicte  
Dom' Reg' nunc apud Compton p'ed in Com' Surrey  
p'dict' vicesimo primo die Novembr' Anno Regni  
Dom' Annæ Dei Gra Mag' Britan' Fran' & Hiber'  
Reg' fidei defensor, &c. septimo circa horam tertiam  
post Merediem ejusdem diei ibi scilicet apud Comp-  
ton p'dict' in Com' Surrey p'dict' venit p'dict' Christo-  
pherus felonice voluntarie ac ex malitia sua p'ogitat  
ut felo dicte Dom' Reg' nunc ac contra pacem dicte

Appell'  
Murdri  
Sororis  
Appellant'  
cu' baculo  
ligneo.

[O]

Dom'



Dom Reg' nunc Coronat & Dignitat suas Anno die  
 & hora p'dict apud Compton p'dict in Comd Surrey  
 p'dict vi & armis, &c. Ac in & sup eand Janam  
 Young in pace Dei & dicte Dom Reg' ut p'sertur  
 existend felonice voluntarie ac ex malicia sua p'co-  
 gitata insult fecit & ad quoda baculo ligneo Malor  
 unius Denar quem ipse idem Christopherus in ma-  
 nu sua dextra Anno die hora & loco p'dict in Comd  
 Surrey p'dict habuit & tenuit p'sat Janam Young in  
 & sup sinistram partem Capitis ipsius Janæ ppe  
 frontem ejusdem Janæ Anno die hora & loco p'dict  
 in Comd Surrey p'dict felonice voluntarie ac ex ma-  
 litia sua p'cogitata verberavit & percussit adtunc &  
 ibidem dans eidem Janæ cu Baculo ligneo p'dict in  
 & sup dict sinistram partem Capitis ipsius Janæ  
 ppe frontem ejusdem Jane unum Vultus Mortale  
 latitudinis duor pollicid & pfundicat unius pollicis  
 de quo quidem Vulture Mortali p'sat Jana Young  
 Anno die & hora p'dict apud Compton p'dict in  
 Comd Surrey p'dict instant obijt Et sic p'dict  
 Christopherus felonice voluntarie ac ex malicia sua  
 p'cogitata p'sat Janam Young Sororem p'dict Hen-  
 rici ac cusus heres idem Henricus est modo & forma  
 p'dict Anno die & hora p'dict apud Compton p'dict  
 in Comd Surrey p'dict interfecit & murtheravit con-  
 tra pacem dicte Dom Reg' nunc Coronat & Digi-  
 nitat suas Et quam cito p'dict Christopherus fe-  
 loniam & Murther p'dict fecerat ipse idem Chri-  
 stopherus fugit Et p'dict Henricus p'dict Christo-  
 pherum recenter insecut fuit de villa in villam  
 usq quatuor villas p'pinqior & ulterius quousq,  
 &c. Et si p'dict Christopherus velit pedicere feloniam  
 & Murther p'dict sup eud in forma p'dict imposi p'o  
 Henricus parat est versus eud p'bare put Cur,  
 &c.

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Et p<sup>o</sup>ict Christopherus Slaterford a<sup>l</sup>s Slaught-  
terford in p<sup>o</sup>re p<sup>o</sup>sona sua ve<sup>n</sup>d & defens vim & in-  
jur quando, &c. Et omnem feloniam & Murdrum &c.  
& quicquid, &c. Et pet<sup>o</sup> Judic<sup>o</sup> de billa Appelli p<sup>o</sup>ict  
quia dic<sup>o</sup> quod ipse tempore Felonie & Murdrum p<sup>o</sup>  
fieri supposit<sup>o</sup> ac diu antea & postea fuit commozans &  
conversans apud Shaford in Com<sup>o</sup> Surrey absq<sup>ue</sup> hoc  
quod ipse dicto tempore Felonie & Murdrum p<sup>o</sup>ict  
fieri supposit<sup>o</sup> aut ad aliquod tempus antea vel postea  
fuit commozans & conversans apud Shalford in Com<sup>o</sup>  
Surrey put p<sup>o</sup> p<sup>o</sup>ictam Willam de Appello p<sup>o</sup>ict  
versus e<sup>u</sup>m superius supponit. Et hoc parat<sup>o</sup> est  
verificare unde pet<sup>o</sup> Judic<sup>o</sup> de p<sup>o</sup>ict Billam Appelli  
& quod Billam illa cassetur, &c. Et quoad feloniam  
& Murdrum p<sup>o</sup>ict idem Christopherus S. dic<sup>o</sup> quod  
ipse in nullo est inde Culpabilis & inde de bono  
& Malo ponit se sup<sup>er</sup> Patriam. Et p<sup>o</sup>ictus Henricus  
Young similiter, &c.

Def<sup>o</sup> pla-  
cit<sup>o</sup> in A-  
batement<sup>o</sup>  
quod fuit  
comorans  
in al<sup>o</sup> loco  
quam in  
Narr<sup>o</sup>  
(viz) apud  
Shaford &c  
non ad  
Shalford  
Et quoad  
felon<sup>o</sup> &c  
Murdrum  
Non Cul<sup>o</sup>

Et p<sup>o</sup> Henricus Young in p<sup>o</sup>re p<sup>o</sup>sona dic<sup>o</sup> quod  
p<sup>o</sup> aliqua p<sup>o</sup> p<sup>o</sup> Christopherum Slaterford a<sup>l</sup>s Slaugh-  
terford supius placitand<sup>o</sup> allegat<sup>o</sup> billa Appelli p<sup>o</sup> rat-  
sari minime debet quia dicit q<sup>uod</sup> ipse p<sup>o</sup> Christopherus  
Slaterford a<sup>l</sup>s Slaughterford tempore felonie  
& Murdrum in billa ipsius Henrici Young p<sup>o</sup>ict supius  
mentionat<sup>o</sup> p<sup>o</sup> p<sup>o</sup>ict Christopherum S. a<sup>l</sup>s S. fieri  
supposit<sup>o</sup> fuit commozans & conversans apud Shal-  
ford in Com<sup>o</sup> Surrey p<sup>o</sup>ict put p<sup>o</sup> Willam p<sup>o</sup>ict ip-  
sius Henrici Young supius supponitur. Et hoc  
pet<sup>o</sup> quod inquiratur p<sup>o</sup> Patriam Et p<sup>o</sup>ict Christo-  
pherus Slaterford a<sup>l</sup>s Slaughterford similiter, &c.  
Ideo tam quoad triand<sup>o</sup> Cris<sup>o</sup> istud quam p<sup>o</sup>ict a<sup>l</sup>  
Cris<sup>o</sup> int<sup>er</sup> p<sup>o</sup>ict Henricum Young & p<sup>o</sup>ict Christo-  
pherum Slaterford a<sup>l</sup>s Slaughterford supius junct<sup>o</sup>  
ve<sup>n</sup>d inde Jur<sup>o</sup> coram Dom<sup>o</sup> Reg<sup>o</sup> apud Westm<sup>o</sup> die  
Lune p<sup>o</sup> post Cris<sup>o</sup> Assensio<sup>n</sup> Dom<sup>o</sup> Et qui nec, &c.

Ven. fa:

ad recogni, &c. Quia tam, &c. Idem dies dat est parti-  
 bus p̄dicti ibidem videlicet p̄dicti Christophero  
 in Custos Mar, &c. Ad quem diem coram Dom̄  
 Reg' apud Westm' veni tam p̄dicti Henricus Young  
 in p̄p̄r p̄sona sua quam p̄dicti Christopherus S. a l s S.  
 in p̄p̄r p̄sona sua. Et hic Com̄ p̄dicti videlicet  
 W. S. Ar retorn breve de ve' fac p̄dicti in omnibus  
 servic' & execut unacum Pannello de nominibus Jur  
 quor' nullus, &c. Ideo p̄cept est hic quod Distring'  
 Jur p̄o p̄ omnes terras, &c. Et quod de Critibus, &c.  
 Ita quod habeat Corpora eor' coram Dom̄ Reg'  
 apud Westm. die Sabbati p̄r post Crum sancte Trin  
 ad recogni in forma p̄o, &c. Idem dies dat est parti-  
 bus p̄dicti ibidem videlicet p̄dicti Christophero in  
 Custos Mar Marese, &c. Ad quem diem coram  
 Dom̄ Reg' apud Westm' veni tam p̄dictus Henri-  
 cus Young in p̄p̄r p̄sona sua quam p̄dicti Christo-  
 pherus S. a l s S. in p̄p̄r p̄sona sua sub Custos Mar  
 &c. Et Jur Jure ill' exact similiter veni qui ad ve-  
 ritatem de & sup̄ p̄missis dicend' elect triat & Ju-  
 rat quoad Crit p̄dicti int̄ p̄res p̄dicti superius ult'  
 junct dicunt sup̄ Sacram̄ suū qd p̄o C. S. a l s S. tem-  
 pore Felonie & Murdro p̄dicti p̄ ipsum sup̄ius fi-  
 eri supposit fuit commozans & conversans apud Shal-  
 ford p̄dicti in Com̄ Surrey p̄res put p̄res Henri-  
 cus Young sup̄ius allegavit. Et quoad Feloniam  
 & Murdro p̄res Jure p̄res ulterius sup̄ Sacram̄  
 suū p̄res dicunt quod p̄res Christopherus S. a l s S.  
 est Cul'pabilis de Felon & Murdro p̄res ei sup̄ius  
 imposuit put p̄res Henricus Young ipsum p̄res  
 Christopherum S. a l s S. inde sup̄ius appellavit.  
 Et Jur p̄res ulterius dicunt sup̄ Sacram̄ suū p̄res  
 Quod p̄res Christopherus null' habet bona seu Catal-  
 la terras aut tenementa nec habuit tempore Felonie  
 & Murdro p̄dicti in forma p̄res commiss' nec unquam  
 postea ad eor' notie. Et sup̄ hoc p̄res Henricus  
 Young

Veredi<sup>t</sup>  
 super Ex-  
 it'.

Def' est  
 Cul' de  
 Felonia &  
 Murdro.

Young  
 Christ  
 Cur'  
 omni  
 inde  
 Cons'  
 spende  
 super  
 Dom̄  
 cution  
 Conce  
 rey p̄o  
 S. secu  
 ford i  
 fieri fa  
 Reg' ap  
 Sancte  
 Reg' t  
 Regm  
 in p̄p̄r  
 de l' W  
 sibi di  
 cundur  
 fieri se

Ann  
 Reg' fi  
 nup in  
 siderat  
 ford de  
 & Mur  
 quodda  
 fratrem  
 dem C  
 p̄olat  
 mortu



Young pet Iudiciū & Executionem versus prefat  
 Christopherum S. als S. de & sup veredict pdict p  
 Cur hic reddi sup quo visis & p Cur hic intellect  
 omnibus & singulis pms' maturaq; deliberatione  
 inde prius hit ad petition pdict' Henrici Young  
 Cons' est quod pdict Christopherus S. als S. su  
 spendatur p Collum quousq; mortuus fuerit. Et  
 super hoc pdict Henricus Young pet breve dicte  
 Dom' Reg' Ric' Com' Surrey pdict dirigend' & exe- Agard  
Execution'  
& return'.  
 cutionem de eodem Chr' S. als S. faciend' & ei  
 Conceditur, &c. per quod pcept est Ric' Com' Sur-  
 rey pdict quod executionem de eodem Chr' S. als  
 S. secundum Iudiciū pdict' apud Willam de Guil-  
 ford in Com' suo die sabbati 9 die Julii instant  
 fieri faciat. Et qualic pcept pdict fuit execut Dom'  
 Reg' apud Westm' die Mercur' pr post tres septiman'  
 hanc Trin constare fac breve pdict dicte Dom'  
 Reg' tunc remittend' Ad quem diem coram Dom'  
 Regina apud Westm' Uen pdict Henricus Young  
 in ppr' pson sua Et Ric' Com' Surrey pdict vi-  
 det W. S. Ar retorn quod ipse virtute brevis pdict  
 sibi dircet Executionem de pfa Chr' S. als S. se-  
 cundum Iudiciū pdict ad diem & locum pdict  
 fieri sec' put per breve sibi pcept fuit.

Anna Dei Gra Magn' Britan' Franc' & Hib.  
 Reg' fidei defensor, &c. Ric' Surrey salutem Cum  
 nup in Cur nostra coram Rob apud Westm' Con-  
 siderat fuit quod Chr' Slaterford als Slaughter-  
 ford de Shalford in Com' tuo Blasphator p feloniam  
 & Murdo Jaræ Young Spinster defunct' unde sup  
 quoddam appellum Murdri per Henricum Young  
 fratrem & heredem pdict Jaræ Young versus eun-  
 dem Christopherum in Cur nostra coram nobis  
 ppolat convic' existit suspendatur p collū quousq;  
 mortuus fuerit tibi igitur pcepimus quod executionē

Breve de  
Execution.

de eodem Chr' Slaterford als Slaughterford se-  
cundum Iudicium p'iet apud Willam de Guildford  
in Com' tuo die sabbati nona die Julii instant  
fieri facias p'ut decet p'culo incuniben. Et qua-  
lit hoc p'cept' nostrum fueris execut' nobis apud  
Westm' die Mercur' pr post: res Septiman' Sancte  
Trinitat' constare fac' hoc breve nostrum nobis  
tunc remittet' T. J. Holr, p'it apud Westm' se-  
cundo die Julii anno regni nostri octavo.

Holr. Ventris.

Retern' 1  
inde.

Virtute istius brevis mihi direct' Executione de  
infra nominat' Chr' Slaterford als Slaughterford se-  
cundum Iudicium infranominat' ad diem & locum  
infra content' fieri feci p'ut interius mihi p'cipi-  
tur.

Willielmus Steavens, Ar' Vic.

An A  
del  
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ple  
Ba  
anc  
ren  
wh  
Bill

Suffex

Termi

Willielm

annoze

tris sui

dian' s

& p'ul

quanda

alias T

Par', &

fratris

sunt ple

de Par

Midds

in Com

in hec

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Willielm

Regis h

lac Wil

An Appeal brought by *Reeves* against *Trindel*, who was Accessary to the Murder of a Custom-House-Officer on the Coast of *Sussex*, and convicted of the Murder, but pleading in Abatement, that he was a *Barber Surgeon* and not a *Labourer*; and that Issue found for him; it still remains for the Judgment of the Court, whether that be sufficient to abate the Bill or not.

*Reeves versus Trendle.*

Pascha 3 Georgii Reg. ——— Rot. 246.

Holr. Ventr. 1.

Sussex ff. **M**emozans quod die lune pr post  
Crastin Ascension Domi isto eodem  
Termino coram Domi Rege apud Westm' veni  
Willielmus Reeves qui infra etatem viginf & un  
annozum existit frater & heres Gerardi Reeves fra  
tris sui nup defunct' p Willielmum Greave Guar  
dian suum p Cur Dom' Reg' hic specialit' admitts'  
& pculit hic in Cur dicti Dom' Reg' tunc ibidem  
quandam billam suam versus Willielmum Trendel  
alias Trendle ats Trundel ats Trundle in custod  
Par', &c. de morte pdict Gerardi Reeves quondam  
fratris pdict Willielmi Reeves unde eid Appellat &  
sunt pleg' de prosequend scilicet Christopherus Reeves  
de Paroch Sancte Margarete Westm' in Com'  
Middff. Gen & Samuel Godwin de Cursitors Alley  
in Comd Middff. Gen que quidam billa sequitur  
in hec verba scilicet Sussex ff. Willielmus Reeves  
qui infra etatem viginf & un annoz' existit frater &  
heres Gerardi Reeves fratris sui nup defunct' p  
Willielmum Greave Guardian suu p Cur Dom'  
Regis hic specialit' admitts' hic in Cur instant Appel  
lat Willielmum Trendel ats Trendle ats Trundel  
ats



Nat. In An  
Appeal by  
Bill it is  
not necessa-  
ry to give  
the Defen-  
dant any  
Addition,  
but is good  
without.

als Trundle de Rotherfeild in Com' Suffex Labourer  
in custod' Mar' Marle' Dom' Regis nunc coram  
ipso Rege existent de eo videlicet quod ubi p'dict' Gerard'  
Reeves fuit in Pace Dei & dicti Dom' Reg' nunc  
apud Westham in Com' Suffex p'dict' duodecimo  
die Januarii anno Regni Dom' Nostri Georgii  
Mag' Britan' Franc' & Hib' Reg' fidei defensor, &c.  
tertio circa horam nonam post meridiem ejusdem  
diei tunc & ibi scilicet apud Westham p'dict' in Com'  
Suffex p'dict' vend' tam Willielmus Trendel als  
Trendle als Trundel als Trundle qui modo com-  
paret quam quidam Thomas Dunmul de Westham  
p'dict' in Com' Suffex p'dict' Labourer qui modo non  
comparet (quem p'dict' Willielmus Reeves similiter hic  
modo appellaret de morte p'dict' Gerardi Reeves si  
p'sens esset) felonice voluntarie ac ex malitia suis  
p'cogitat' ut felon dicti Dom' Reg' nunc ac contra pa-  
cem dicti Dom' Reg' nunc coram & dignitat' suas die  
anno & hora p'dict' apud Westham p'dict' in Com' Suffex  
p'dict' vi & armis, &c. & ad tunc & ibi scilicet anno die & ho-  
ra sup'dicta apud Westham p'dict' in Com' Suffex p'dict' felonice  
volunt' ac ex mal' suis p'cogitat' in & super eund' Gerard'  
Reeves in pace Dei & dicti Dom' Reg' nunc ut p'sert'  
existent' vi & armis, &c. insult' fecer' & p'dict' Thomas  
Dunmul cum quod ensiculo (Anglice an Hanger) de  
ferro & chalybe confect' valoris quinq' solidor' quem  
ipse idem Thomas Dunmul in manu sua dextra anno  
die hora & loco p'dict' apud Westham p'dict' in Com' Suffex  
p'dict' extract' fuit & tenuit p'fat' Gerardo' Reeves in & super  
sinistr' partem docti ipsius Gerardi Reeves p'pe sinistr'  
humeru' ejusd' Gerardi anno die & hora p'dict' apud  
Westham p'dict' in Com' Suffex p'dict' felonice voluntarie &  
ex malicia p'cogitat' ipsius Thomæ Dunmul percussit in-  
foravit & vulneravit ad tunc & ibi scilicet anno die &  
hora p'dict' apud Westham p'dict' in Com' Suffex p'dict'  
eund' ensiculo p'dict' sic ut p'sert' extract' & tenet dans eid'  
Gerardo

Gerard  
ipsum  
Gerard  
& p'sun  
mortal  
duodeci  
m'd te  
tertio  
Suffex  
dam de  
p'dict' G  
Suffex  
Williel  
Trundl  
sup'dict  
diei ap  
volunta  
Trende  
p'sens  
manute  
p'dict' p  
litia p  
p'petrar  
Trendle  
Dunmu  
Williel  
similit  
Gerard  
ac rusus  
forma  
p'cogit  
Westham  
dicti D  
& quam  
als Tre  
compar

Gerardo Reeves in & super p[re]s[ent] sinistr[am] partem do[ct]i  
 ipsius Gerardi Reeves p[ro]p[ter] p[re]s[ent] sinistr[am] h[um]er[um] ipsius  
 Gerardi vulnus mortale longitudin[em] crur[um] pollicis  
 & p[ro]funditat[em] crur[um] pollicis de quo quidem vulnere  
 mortali p[re]s[ent] Gerardus Reeves a p[re]s[ent] hora nona esus[us]  
 duodecimi die Januar[is] anno tertio sup[er]ius usq[ue] deci-  
 mid[um] terti[um] diem ejusdem mensis Januar[is] anno  
 tertio sup[er]ius apud Westham p[re]dict[us] in Com[itu]  
 Suffex p[re]s[ent] languebat & languidus viris quo qui-  
 dam decimo tertio die Januar[is] anno tertio sup[er]ius  
 p[re]s[ent] Gerardus Reeves apud Westham p[re]s[ent] in Com[itu]  
 Suffex p[re]s[ent] de vulnere mortali p[re]s[ent] oblit. Et p[re]s[ent]  
 Willielmus Trendel als Trendle als Trundel als  
 Trundle eodem duodecimo die Januar[is] anno tertio  
 sup[er]ius circa p[re]s[ent] horam nonam post meridiem esus[us]  
 diei apud Westham p[re]s[ent] in Com[itu] Suffex p[re]s[ent] felonice  
 voluntarie & ex malicia p[re]cogitat[us] ipsius Willielmi  
 Trendel als Trendle als Trundel als Trundle fuit  
 p[re]s[ent] auxilians abettans assistens confortans &  
 manutenens p[re]s[ent] Thomam Dunmul ad feloniam & Mur-  
 d[ur]m p[re]s[ent] in forma p[re]s[ent] felonice voluntarie & ex ma-  
 litia p[re]cogitat[us] ipsius Thom[as] Dunmul faciend[um] &  
 p[er]petrand[um]. Et sic p[re]s[ent] Willielmus Trendel als  
 Trendle als Trundel als Trundle & p[re]s[ent] Thomas  
 Dunmul (quem quidem Thomam Dunmul p[re]s[ent]  
 Willielmus Reeves de morte p[re]s[ent] Gerardi Reeves  
 similiter hic modo appellaret si p[re]s[ent] esset) p[re]s[ent]  
 Gerardum Reeves nup[er] fratrem ipsius Willielmi Reeves  
 ac cusus heres idem Willielmus Reeves est modo &  
 forma p[re]s[ent] felonice voluntarie & ex malitiis suis  
 p[re]cogitat[us] interfecer[et] & Murd[ur]aber scilicet apud  
 Westham p[re]s[ent] in Com[itu] Suffex p[re]s[ent] contra pacem  
 dicti Com[itu] Regis nunc Coron[am] & dignitat[em] suas, &c.  
 & quam cito idem felo dictus Willielmus Trendel  
 als Trendle als Trundel als Trundle qui modo  
 compareret felon[em] & Murd[ur]m p[re]s[ent] in forma p[re]s[ent]  
 f[er]r[et]

fecisset ipse idem Willielmus Trendel als Trendle als Trundel als Trundle fugit & idem Willielmus Reeves ipsum Willielmum Trendel als Trendle als Trundel als Trundel recent' insecut' fuit de villa in villam usq; quatuor villas propinquiores & ulterius quousq; &c. Et si idem felo dictus Willielmus Trendel als Trendle als Trundel als Trundle qui modo compareret Felon & Murdrum p'ed ei in forma p'ed imposu' velit dedicere p'ed Willielmus Reeves hoc parat est versus eum probare put Cur', &c.

Def' placi' in Abatement quod fuit Tonfor' Chirurgus & non Labourer.

Et quoad Murdrum non Cul'.

Et p'ed Willielmus Trendel als Trendle als Trundel als Trundle qui modo Appellat' exist' p' nomen Willielmi Trendel als Trendle als Trundel als Trundle de Rotherfeild in Com' Suffex Labourer in p'p' pson sua Men & defens' Wm & in iur' quando, &c. Et omnem Felon & Murdrum, &c. Et dic' quod ipse tempore exhibition' Wille de Appel p'ed fuit Tonfor' Chirurgicus absq; hoc quod ipse tempore exhibition' Wille p'ed fuit Labourer put p' Willam p'ed supius supponitur & hoc parat est verificare unde p'ed Iudicium de bill' p'ed & quod bill' ill' cassetur, &c. Et quoad Felon & Murdrum p'ed idem Willielmus Trendel als Trendle als Trundel als Trundle dic' qd ipse in nullo est inde Culpabilis & inde de Bond & Pa' pon se sup' Patriam & p'ed Willielmus Reeves similis, &c. Et p'ed Willielmus Reeves p' Guardian' suu' p'ed dicit quod p' aliqua p' p'ed Willielmum Trendel als Trendle als Trundel als Trundle supius placitando allegat' Bill' Appel' p'edict' cassare minime debet quia dic' quod ipse p'edict' Willielmus Trendel als Trendle als Trundel als Trundle tempore exhibition' Wille de Appel' p'edict' fuit Labourer put per Willam de Appel' p'ed supponitur & hoc p'ed quod inquiratur p' patriam & p'ed Willielmus Trendel als Trendle als

als Trundel als Trundle  
Cris istu  
Reeves  
Trundel  
coram  
tres sepo  
ec. quia  
ibidem  
Trendle  
ec. Ad  
Westm'  
Guardia  
Trendel  
p'p' p'lo  
Com' S  
inde sec  
quod p'ed  
Portus u  
bebe M  
Com' Su  
mino Re  
que est  
erra p  
Westham  
supius ju  
als Tren  
dic' necno  
quod alle  
reditur  
quod Wile  
de Percu  
duodecim  
in Com'  
uos, &c.  
am, &c.



als Trundel als Trundle similiter Ideo tam ad triand  
 Erit istum p[re]s quam p[re]s al[ter] erit inter Willielmum  
 Reeves & p[re]fat Willielmum Trendel als Trendle als  
 Trundel als Trundle sup[er]ius junct[ur] veni[unt] inde Jur  
 coram Dom[ino] Reg[is] apud Westm[onasterium] die Mercur[us] p[ro] post  
 tres septiman[as] Sancti Trin[itatis] & quinec, &c. ad recogn[oscere],  
 &c. quia tam, &c. idem dies dat[ur] est partibus p[re]s  
 ibidem videlicet p[re]dict Willielmo Trendel als  
 Trendle als Trundel als Trundle in custod[ia] Mar[is],  
 &c. Ad quem diem coram Domino Rege apud  
 Westm[onasterium] veni[unt] tam p[re]dict Willielmus Reeves p[er]  
 Guardian[em] suum p[re]dict quam p[re]dict Willielmus  
 Trendel als Trendle als Trundel als Trundle in  
 p[re]s p[er]sona sua videlicet in custod[ia] Mar[is], &c. & Wic[omitis]  
 Com[itis] Suffex non misit inde breve nec aliquid  
 inde fec[erunt] Et sup[er] hoc p[re]s Willielmus Reeves dic[unt]  
 quod p[re]dict Willa de Westham est infra Quinq[ue]  
 Portus ubi breve Domini Regis non currit & p[er]  
 breve Domini Regis de Wic[omitis] fac[erunt] Wic[omitis] p[re]dict  
 Com[itis] Suffex dirigend[um] quod Wic[omitis] fac[erunt] coram Do-  
 mino Reg[is] duodecim, &c. de Wisu de Eastbourne  
 que est p[ro]p[ri]etate Willa in p[re]dict Com[itis] Suffex  
 terra p[re]dict Quinq[ue] Portus p[re]dict Wille de  
 Westham p[ro]p[ri]etate ad triand[um] sepa[re]t Erit p[re]dict  
 sup[er]ius junct[ur] Et quia p[re]dict Willielmus Trendel  
 als Trendle als Trundel als Trundle ille non de-  
 nit necnon quia videtur Cur[ia] dicti Domini Regis  
 quod allegatio p[re]dict est rationi consonans ei con-  
 ceditur Ideo p[re]cept[um] est Wic[omitis] p[re]dict Com[itis] Suffex  
 quod Wic[omitis] fac[erunt] coram Domino Rege apud Westm[onasterium]  
 die Mercur[us] p[ro] post tres septiman[as] Sancti Michaelis  
 duodecim, &c. de Wicinet[us] de Eastbourne p[re]dict  
 Com[itis] Suffex p[re]dict quorum quilibet, &c. p[er]  
 nos, &c. qui nec, &c. ad recogn[oscere], &c. quia  
 tam, &c. idem dies dat[ur] est partibus p[re]dict  
 ibidem

Agard  
 Venir'.

Suggest  
 quod Villa  
 de West-  
 ham est in-  
 fra Quinq[ue];  
 juratus &  
 ubi breve  
 dom[us] reg[is]  
 non Curr[unt]  
 & agard  
 ven[ire] de  
 prox Vill[is]  
 adjacen[tes].

Vlc' non  
miss'breve.

ibidem videlicet p'dict Willielmo Trendel als  
Trendle als Trundel als Trundle in custod' Mar,  
sc. Ad quem diem coram Domino Rege apud  
Westm' Wren tam p'dict Willielmus Reeves  
p' Guardian' suum p'dict quam p'dict Williel-  
mus Trendel alias Trendle alias Trundel als  
Trundle in p'pria p'son' videlicet in custod' Mar,  
sc. & Wic' Com' Suffex p'dict non misit in-  
de breve nec aliquid inde fec' Ideo sicut als p'ce-  
cept est Wic' Com' Suffex p'dict quod Wren fac'  
coram Domino Rege apud Westm' die Iobis p'  
post Octab' Sancti Willar duodecim, sc. de Wi-  
cineto de Eastbourne p'dict in Com' Suffex  
p'dict quorum quilibet, sc. p' quos, sc. & qui  
nec, sc. ad recogn', sc. quia tam, sc. idem dies  
dat est partibus p'dict ibidem videlicet p'stat  
Willielmo Trendel als Trendle als Trundel als  
Trundle in custod' Mar, sc. Ad quem diem co-  
ram dicto Domino Rege apud Westm' Wren tam  
p'dict Willielmus Reeves per Guardian' suum  
p'dict quam p'dict Willielmus Trerdel als Trendle  
als Trundel als Trundle in p'p' person' sua vi-  
delicet in custod' Mar, sc. & Wic' Com' Suffex  
p'dict non misit inde breve nec aliquid inde  
fec' Ideo sicut plur' p'cept est Wic' Com' Suffex  
p'dict quod Wren fac' coram dicto Domino Reg'  
apud Westm' die Mercur' p' post Octab' Pur' be-  
Marie Virginis duodecim, sc. de vicineto de East-  
bourne p'dict in p'dict Com' Suffex quorum quilibet,  
sc. per quos, sc. & qui nec, sc. ad recogn', sc. quia  
tam, sc. idem dies dat est partibus p'dict ibidem  
videlicet p'stat Willielmo Trendel als Trendle als  
Trundel als Trundle in custod' Mar' sc. Ad quem  
diem coram dicto Domino Rege apud Westm' Wren  
tam p'dict Willielmus Reeves p' Guardian' suum  
p'dict

p'dict  
als  
in cu  
delice  
Weni  
unaci  
quoz  
p'dict  
& quo  
coram  
tres  
idem  
p'dict  
als  
Dom  
de Ec  
Gost  
gius  
in  
paroc  
pente  
copu  
Trun  
coram  
tunc  
libet  
dem  
ram  
elmu  
Willie  
Trun  
milit  
gend  
p'dict  
p'dict

p̄dict quam p̄dict Willielmus Trendel als Trendle  
 als Trundel als Trundle in p̄p̄r p̄son sua videlicet  
 in custod̄ Mar, &c. Et Wic Com' Suffex p̄p̄r vis  
 delictet Willielmus Peckham Ar' retor̄n brebe de  
 Menir fac ult sup̄rad in omnibus servit & exrecut  
 unacū panell̄ de nominibus Jur' eidem brebi annex'  
 quorum nullus, &c. Ideo p̄ceptū est Wic Com'  
 p̄dict quod distring' Jur' p̄p̄r p̄ omnes terras, &c.  
 & quod de Exit, &c. ita quod habeat corpora eorum  
 coram Dom' Reg' apud Westm' die Mercur' p̄r post  
 tres septiman̄ Pasche ad recogn̄ in forma p̄p̄r, &c.  
 idem dies dat̄ est partibus p̄p̄r ibidem, &c. videlicet  
 p̄p̄r Willielmo Trendel als Trendle als Trundel  
 als Trundle in custod̄ Mar, &c. & sup̄ hoc coram dicto  
 Domino Rege apud Westm' ven̄ Johannes Heyward  
 de Etchingham in Com' Suffex Yeom', Johannes  
 Goston de Isfeld in Com' Suffex p̄p̄r Yeom', Geor-  
 gius Goolding de paroch̄ sancti Georgii Southwarke  
 in Com' Surrey Victualer & Willielmus Davis de  
 paroch̄ sancte Mariæ Illington in Com' Middfl, Car-  
 penter in p̄p̄r p̄son suis & manuceper' ad habend̄  
 corpus p̄p̄r Willielmi Trendel als Trendle als  
 Trundel als Trundle in p̄p̄r Cur' dicti Dom' Reg'  
 coram ipso Rege die Mercur' p̄r post Quinden̄ Pasche  
 tunc p̄r sequen̄ & sic de die in diem quousq̄, &c. qui-  
 libet manucapt p̄p̄r corpus p̄ corpore Ad quem qui-  
 dem diem Mercur' p̄r post tres septiman̄ Pasche cor-  
 ram Dom' Reg' apud Westm' ven̄ tam p̄p̄r Willi-  
 elmus Reeves per Guardian̄ suum p̄p̄r quam p̄p̄r  
 Willielmus Trendel als Trendle als Trundel als  
 Trundle in p̄p̄r p̄son sua & Jur' Jure ill̄ exact̄ si-  
 milit̄ ven̄ qui ad veritat̄ de & super premis' dis-  
 cend̄ elect̄ triat̄ & jurat̄ quoad exit p̄p̄r int̄ partes  
 p̄p̄r superius ult̄ junct̄ dic̄ sup̄ Sacram' suum quod  
 p̄p̄r Willielmus Trendel als Trendle als Trundel  
 als

Ret' de  
Ven' fac'.

Agard  
Distr' Jur'.

Def' tradi-  
tor in bill'.

1 Exit' per  
Def' quod  
non fuit  
Labourer.



2. Exit  
Def.  
Est Cul'  
de Mur-  
dro.

als Trundle tempore exhibitionis bill de Appell p[re]s  
non fuit Labourer p[er] bill de Appell p[re]s suppo-  
nitur & quoad exit p[re]s int[er] partes p[re]dict[as] superius  
primo junct[us] Jur[is] p[re]s ulterius sup[er] Sacram[entum] suum  
p[re]s dicunt q[uo]d p[re]s Willielmus Trendel als Trendle  
als Trundel als Trundle est Culpabil[is] de Feloni[is]  
& Mordro p[re]s ei superius imposit[us] p[er] p[re]s Wil-  
lielmus Reeves ipsum Willielmum Trendel als  
Trendle als Trundel als Trundle inde superius  
Appellabit.

Defendant was tried in *Suffex*, upon an In-  
dictment for Murder, and acquitted, and then  
charged in Custody by Writ of Appeal by the Heir  
at Law, and afterwards removed by *Habeas Cor-  
pus* into the King's Bench; but there being a Blank  
in the Writ for the Defendant's Addition, he plead-  
ed in Abatement to the Writ, and had Judgment  
that the Writ should be abated. And thereupon  
the Defendant was charged in the Custody of the  
Marshal of the King's Bench by Bill of Appeal, as  
in the Proceedings above set forth.

The

# T H E T A B L E.

A.

## *Appeals.*

<b>A</b> ppeals defin'd, the Nature of, &c. in general	Page 1
Appeals of Maihem, Rape, &c.	2
Appeals how commenced, by Writ, Bill, &c.	3
In what time Prosecution to be had.	4
By whom brought in all Cases, viz. by Heirs-male, next of Kin, Wives, &c.	<i>Ibid.</i>
But a Woman marrying again loses the Benefit of Appeal.	<i>Ibid.</i>
A Woman may have an Appeal of Robbery, but not of the Death of an Ancestor.	5
Hermaphrodites may bring Appeals.	<i>Ibid.</i>
What Persons may not have Appeal	<i>Ibid.</i>

## *Appeals of Murder, particular Proceedings on, &c.*

In what Courts Appeals prosecuted.	108
Days between the <i>Teste</i> and Return of Writs.	109
Parties to appear in <i>Propria Persona</i> .	<i>Ibid.</i>
Appellant to prosecute <i>recenter</i> & <i>instante</i> .	<i>Ibid.</i>
	Or

## The TABLE.

Or a <i>Scire Facias</i> shall issue, and the Defendant be discharged.	Page 109
Particular Certainties in the Count, as the Year, the Day, Hour, Place, Weapon, Part wounded, &c.	110
The exact Day of the Week and Hour not necessary.	Ibid.
Omission of Words, false Latin, &c. abates the Writ.	111
But the Party may be afterwards indicted	Ibid.
Nonfuit in Appeal, no fresh Action allowed, as in other Cases.	Ibid.
In what Cases the King may prosecute on Appeals.	112
On Default of the Appellant, fraudulent Releases, &c.	Ibid.
Release in Appeals of Murder, &c. See <i>Maibem</i> .	
Persons bringing malicious Appeals, false Appeals, &c. how punishable.	Ibid.
Approver to fight with all the Appellees.	113
Formerly an Infant could not bring Appeal, because of joining Battle.	Ibid.
Heir to have Appeal for the Death of a Man's Wife.	Ibid.
But the Wife to have Appeal for the Murder of her Husband.	114
Appeals against Accessaries, how brought.	Ibid.
Attainder of Principal and Accessary.	Ibid.
Acquittal of Principal, discharges all Accessaries.	115
Accessary to have Damages, where the Principal acquitted.	Ibid.
But one Appeal against Principal and Accessary, unless in several Counties.	Ibid.
Appeals brought in the County where the Fact was committed, &c.	116

Plea

Plea in  
Evidenc  
Adjourn  
Appeals  
Excepti  
Fresh S  
In App  
Convict  
Bar  
Appeal  
men  
In B. J  
Part  
Persons  
bring  
Convict  
Clergy  
peal  
No Pa  
Lati  
An Ap  
in a  
A Plea  
Mr.  
fenc  
An Ap  
The C  
Low  
The C  
Return  
Mu



## The TABLE.

Plea in Appeal, Special Matter not to be set forth.	Page 117
Evidence in Appeals.	<i>Ibid.</i>
Adjournment of Courts by a <i>Dies Datus</i> , &c.	<i>Ibid.</i>
Appeals removed.	118
Exceptions to Appeals, Pleadings, &c.	<i>Ibid.</i>
Fresh Suit in Appeals.	<i>Ibid.</i>
In Appeal of Murder, Manslaughter found.	119
Conviction of Manslaughter on Indictment, good Bar to Appeal of Murder.	120
Appeal brought at the same Sessions with the Indictment, how tried.	<i>Ibid.</i>
In B. R. The Court bound <i>ex Officio</i> to call the Party to Judgment.	121
Persons acquitted, bailed for a Year and Day, to bring the Appeal.	<i>Ibid.</i>
Conviction more safe than Acquittal	<i>Ibid.</i>
Clergy must be had on Conviction to bar the Appeal.	<i>Ibid.</i>
No Pardon in Appeals.	122

### *Latin Precedents, &c. in Appeals of Murder.*

An Appeal of Murder copied from the Rolls, &c. in a Cause between <i>Fox</i> and <i>Low</i> . & <i>al.</i>	123
A Plea in this Cause perused by Sir <i>Peter King</i> and Mr. Justice <i>Eyre</i> , who were Counsel for the Defendants, examined with the Office-Copy.	131
An Appeal and Pleadings likewise perused by them.	136
The Conviction in this Cause, The Queen <i>versus</i> <i>Lowe</i> & <i>al.</i>	144
The Conviction and Return of the <i>Certiorari</i>	148
Return of the <i>Certiorari ad removenda</i> Appell' <i>Murtri</i>	157
	Bal

## The TABLE.

Bail for Appearance.	Page 167
Breviate to discharge the Recognizances.	169
Notice to the Clerk in Court to discharge the Recognizances.	170
Affidavit of the Notice.	<i>Ibid.</i>
Lord Chief Justice <i>Holt's</i> Summons to attend, &c.	171
Motion to record the Defendant's Appearances.	<i>Ibid.</i>
Rule of Court upon the Motion.	172
Instructions to move to record the Appearances of the Appellees.	<i>Ibid.</i>
Motion to record Appearances, and discharge the Appeal.	173
Appeal of Murder brought by a Woman for the Death of her Husband, with Special Pleadings.	174
Writ of Appeal of Murder, and Indictment, &c. in another Cause.	179
An Appeal of Murder removed from the <i>Old Baily</i> , into <i>B. R.</i> with great Variety of Pleadings.	183
A Declaration in Appeal of Murder.	193
Appeal brought by a Woman.	195
Accessaries in Murder, see more <i>Principal, Murder, &amp;c.</i>	

### B.

Bastard Child concealed, Evidence of Murder.	36
Bail in cases of Appeal and Murder.	54, 121, 167,
Breviate for Counsel to move in Appeal, &c.	168
——— To record Appearances.	171
——— To discharge the Appeal.	173

### C.

Challen  
Combat

Clergy,  
*Certiora*  
Convict  
Cutting

Duellin

&c.  
*Vide mo*  
*Se Defe*  
Damag

crea

Execut  
men

Escapes

# The TABLE.

## C.

Challenges, see <i>Duelling</i> .	Page 10, 13, 14,
Combats of Kings.	14
—— Allowed by Law.	52
—— In Writs of Right, &c.	<i>Ibid.</i>
Clergy, in Manslaughter	120
<i>Certiorari</i> to remove Appeals, &c.	118, 148,
Convictions on Appeals, &c.	144
Cutting out Tongues, &c. See <i>Maibem</i> .	

## D.

Duelling, Drawing on a defenceless Person.	9, 10, 14.
—— Fighting on a former Quarrel.	10
—— All Principals and seconds guilty of Murder.	<i>Ibid.</i>
—— Persons sending Challenges, how punish'd,	13, 14
&c.	
<i>Vide</i> more, under the Head <i>Murder</i> .	
<i>Se Defendendo</i> , See <i>Homicide justifiable</i> .	47
Damages recovered in Appeals, in what Cases.	115
—— Jury giving too small Damages, how en-	116
creas'd.	

## E.

Execution in Murder to be pursuant to the Judg-	
ment.	29
—— Sheriff, &c. altering it, implies Malice:	<i>Ibid.</i>
—— Persons executed by an illegal Authority.	<i>Ibid.</i>
—— Without a lawful Warrant, Felony.	<i>Ibid.</i>
Escapes of Prisoners.	67
Evidence	



## The TABLE.

Evidence of the Wife against the Husband, in what Cases	Page 96
Evidence in Appeals.	117
Evidence in an Indictment, when no Evidence in Appeal.	Ibid.

### F.

Felo de se, what it is.	54
—— Falling upon another Man's Sword, &c.	55
—— Persons kill'd at their own Request, not Felo de se.	Ibid.
—— Agreeing to die together.	Ibid.
—— Forfeiture in Cases of Felo de se.	Ibid.
—— A Lunatick, Infant, &c. may not be Felo de se.	56
Fresh Suit in Appeals.	119

### H.

Homicide, Definition of.	6
Homicide justifiable.	45
—— Killing a Person attempting to rob or commit Murder, in defence of a Man's House, &c. justifiable.	17, 47
—— Servants killing Persons assaulting their Masters. &c.	46
—— A Woman killing a Person attempting to ravish her.	Ibid.
—— A Man assaulted on the Highway need not give back to the Wall.	46
—— Persons shooting at others, or making Passes, may be kill'd.	46
—— There must be an unavoidable Necessity.	Ibid.

M. lice

## The TABLE.

*Homicide*; Malice not to be cover'd under Pretence  
of Necessity. Page 46

—— Bare Private Trespass will not justify Kill-  
ing. 47

—— Killing *se Defendendo*. 47, 53

—— In some Cases killing an innocent Person,  
justifiable. 48

—— Officers may kill Persons resisting in Ar-  
rests, &c. 49

—— Persons flying may be kil'd if they can't  
be taken alive. Ibid.

—— Persons engag'd in a Riot resisting, Tres-  
passers in Parks, &c. Justifiable to kill. 50

### *Homicide excusable.*

—— Shooting at Deer, Game, &c. and killing a  
Person. 50

—— Playing at Foot-ball, &c. and a Person is  
kill'd, excusable. 51

—— But playing with Naked Swords, blunt-  
pointed, &c. *contra*. Ibid.

—— Shooting in a Street, &c. Manlaughter. Ibid.

—— Timber cast from a Place, giving Warning,  
excusable. Ibid.

—— Whipping a Horse on which a Man rides. Ibid.

—— Schoolmaster Correcting his Scholar, Pa-  
rent his Child, &c. 52

### *Homicide by Misadventure.*

—— Formerly adjudged Murder. Ibid.

—— Pecuniary Punishments for Murder in the  
Time of the Saxons. 53

P

Inten-

# The TABLE.

## I.

Intentions of Killing, See Title <i>Murder</i> .	Page 25
Judges executing Persons by usurped Authority, Murder.	29
Infant executed for killing her Mistress.	41

## Of Indictments of Murder.

Indictment what, the Jury finding <i>Billa vera</i> , <i>&amp;c.</i>	57, 58
Things necessary in, as Names, Additions, <i>&amp;c.</i>	<i>Ibid.</i>
Certainties of Time, Place, <i>&amp;c.</i> the Wound given, <i>&amp;c.</i>	59
Quash'd for want of Certainty.	60
Falſe Latin not quash an Indictment.	61
Words necessary in all manner of Indict- ments.	<i>Ibid.</i>
<i>Vi &amp; armis</i> , and conclude <i>contra pacem</i> , <i>&amp;c.</i>	62
Two Indictments at the ſame Time, how tried.	<i>Ibid.</i>
If void by Inſufficiency, others will lie.	<i>Ibid.</i>
For Manſlaughter.	63
Pleading not Guilty after a Pardon waves it.	<i>Ibid.</i>
Persons may not ſet forth Killing <i>Se De-     ferendo</i> , <i>&amp;c.</i>	64
But are to plead not Guilty.	<i>Ibid.</i>
Persons Indicted as Accessaries.	65
One acquitted as Principal, not indictable as Accessary before the Fact.	<i>Ibid.</i>



## The TABLE.

*Indictment*, A Man may be both Principal and Accessary. Page 65

—— Principal not appearing, Accessary shall answer. *Ibid.*

—— But not be tried, and if the Principal be acquitted, pardon'd, &c. the Accessary is clear'd. *Ibid.*

—— Principal and Accessary tried by the same Inquest. *Ibid.*

—— When Accessary tried in one County, and Principal in another. 66

—— Persons indicted in two Counties for the same Crime. *Ibid.*

—— Remanded to Prison after the first Indictment. *Ibid.*

—— Gaolers and others indicted for Escapes. *Ibid.*

—— Several Persons comprehended in one Indictment. 67

—— In what cases Indictments preferred to Appeals. 68

—— King has greater Interest than the Parry. *Ibid.*

—— The Day not certain in the Indictment, to be found by the Jury. *Ibid.*

—— Indictments of High Treason, intending to Murder, &c. 69

—— For Poisoning, particular Circumstances, not Prejudice, if Substance be found. *Ibid.*

—— Weapons of the same Nature may be given in Evidence. 70

—— The Case of a Man who was stabbed, and had his Nose cut. 71

—— Indictment on the Statute of Stabbing, not to conclude *contra formam Statuti*. *Ibid.*

## The TABLE.

Indictment *Circiter pectus* is ill, for the Place, Length, Depth, &c. of the Wound are to be certainly set forth. Page 71

### Precedents of Indictments for Murder.

A common Indictment for Murder.	72
An Indictment for Murder, committed by two Persons.	73
— For Murder committed in another County.	74
— Murder by a Husband on his Wife.	75
— In Petit Treason against a Wife killing her Husband.	76
— Against a Woman for Murdering her Husband by Poison.	77
— For Poison, generally drawn.	78
— Against a Servant for killing his Master, and an Accessary.	79
— For Murder and Petit Treason in a Servant killing her Mistress.	80
— Murder with a Gun.	81
— Manslaughter on the Statute of Stabbing.	Ibid.
— For Chancemedley.	82
— Killing a Person <i>se Defendendo</i> .	83
— For a Riot in a Park, and wounding a Keeper, &c.	84
— Strangling a Bastard Child.	Ibid.
— Killing an Infant in the Mother's Belly.	85
Judgment in Appeals of Murder, Rape, &c. the former Death for Death, &c.	117, 202

## The TABLE.

### K.

- Killing, stirring up a Dog accustomed to bite, if  
Death ensues, adjudged a Killing. 28
- Inciting a Madman to kill another, ad-  
judged a Killing. *Ibid.*
- Compelling a Man to accuse another, &c. *Ibid.*
- Doing any Act which endangers another's  
Life, and Death ensues. *Ibid.*
- Leaving a Child in a Field, where 'tis de-  
stroyed by Vermin, a Killing. 37

### M.

#### *Maihem.*

- Maihem defin'd 86
- Life and Members of the Subject under the King's  
Protection. *Ibid.*
- Castration is Maihem, but cutting off Ears not so. *Ibid.*
- Cutting out the Tongue, &c. Felony by Statute. 87
- No Attornies to be made in Maihem, tho' a Man  
be desperately wounded. *Ibid.*
- Plea *Nul Tiel in rerum Natura*, not allow'd in  
Maihem. 88
- Diversity between the Defence of a Man's Person  
and Goods. *Ibid.*
- What Release a good Plea in Bar, in Appeals of  
*Maihem, Murder, &c.* 89
- A Man indicted and fined for maiming himself. 90
- A Parson and a Woman indicted for maiming her  
Husband by Flogging. *Ibid.*



## The TABLE.

The Case of a <i>Monk</i> who had his Privy Members cut off for Adultery.	90
—— of a Noble Lord who lost his Privy Members on the like Occasion.	<i>Ibid.</i>
The Case of cutting off a Man's Nose, &c. See <i>Stabbing.</i>	
The extent of the Word <i>Maibem.</i>	91
Words proper in Indictments and Appeals of <i>Maihem.</i>	<i>Ibid.</i>

### *Precedents of Indictments for Maihem.*

An Indictment for <i>Maihem.</i>	91
—— For putting out a Man's Eyes.	92
—— Another Indictment for the same.	<i>Ibid.</i>
—— Against a Person for cutting out the Tongue of another.	<i>Ibid.</i>
—— For cutting off a Thumb.	93
An Appeal of <i>Maihem.</i>	196
—— Declaration in Appeal of <i>Maihem.</i>	197
—— For cutting out a Man's Tongue.	198

### *Of Murder, &c.*

Murder and Manslaughter, Definition of.	6
Murder, Proceedings on it in Antient Times.	<i>Ibid.</i>
Malice prepensed makes it.	7
Malice prepense, what it is.	<i>Ibid.</i>
Murder on a sudden Quarrel.	<i>Ibid.</i>
The sudden Quarrel to be proved by the Party indicted.	<i>Ibid.</i>
Murder, what Provocations shall extenuate the Crime.	8
No ill Language or Gestures sufficient Provocation.	<i>Ibid.</i>

A Jury

## The TABLE.

A Jury fin'd for bringing in Manſlaughter, where a Person was killed without Provocation.	Page 9
Duelling, Drawing on a Person having no Weapon, Malicious.	10
—— Principals and Seconds.	<i>Ibid.</i>
—— Stranger lending a Sword, and Person kill'd, Manſlaughter.	11
—— The Law, no Regard to the Person who be- gins the Quarrel.	<i>Ibid.</i>
—— Fighting a ſecond time, a nice Caſe.	<i>Ibid.</i>
—— Hiring a Man to ſtrike one, evades not the Law.	12
—— Nor flying back to the Wall, after an Af- ſault.	<i>Ibid.</i>
—— A Man Maſter of his Temper in a ſudden Quarrel, guilty of Murder.	<i>Ibid.</i>
—— A Man may defend himſelf, and not leſſen his Adverſary's Crime.	13
—— Perſons offering Violence may be purſued, <i>&amp;c.</i>	<i>Ibid.</i>
—— And ſuch Perſons killing in their own De- fence, Murder,	<i>Ibid.</i>
—— Sending Challenges.	<i>Ibid.</i>
—— Challenges of Kings of <i>England</i> , with thoſe of <i>France</i> .	14
In Murder, Perſons not endeavouring to part others Fighting.	15
—— Perſons neglecting their Cure, not alleviate the Crime.	<i>Ibid.</i>
—— But they muſt die in a Year and Day.	<i>Ibid.</i>
—— Returning Strokes, lawful.	16
—— Attacking a Perſon with a dangerous Wea- pon, expreſs Malice.	<i>Ibid.</i>
—— Uſing Violence to compel Promiſes, not ju- ſtifiable.	<i>Ibid.</i>

## The TABLE.

Murder in What Cases, though no Malice appears.

Page 17

### *Murder in Arrests, Riots, &c.*

Where Persons are injuriously restrain'd of their Liberty, &c. not Murder to kill. *Ibid.*

—— But killing a Legal Officer, tho' the Process be erroneous, &c. Murder. *Ibid.*

—— Strangers rescuing Persons arrested. 18

—— Killing Persons in Affrays, Constables, &c. 19

—— Notice, deliberate Act, &c. make it Murder. *Ibid.*

—— Murder in all present. *Ibid.*

—— When in a particular Person, tho' he commit not the Fact. *Ibid.*

—— Watchman killed taking up Persons at Night. *Ibid.*

—— Coming to do an unlawful Act, as to Hunt in a Park, &c. 20

—— Unlawful Act must be pursued. 21

—— Shooting at one Man, and killing another, Murder. 22

### *Commanding to Kill, &c.*

—— Servants attending and obeying Masters, &c. 24

—— Death to ensue upon the Act commanded. *Ibid.*

—— But no matter for the Means. *Ibid.*

—— Commanding one to beat another who kills him, Accessary to the Murder. *Ibid.*

—— Malice to continue 'till the Act perpetrated. *Ibid.*

*Intentions*



## The T A B L E.

### *Intentions of Murdering.*

- In what Cases Persons have been fined, and  
in what Cases executed. Page 25
- Attempting to kill a Privy Counsellor, Fe-  
lony. 26
- Riding an unruly Horse, throwing Stones,  
&c amongst Persons, with Intention of Mischief. *Ibid.*
- Timber and Stones thrown from Houses,  
cleansing Gutters, &c. 27

### *Not preventing Mischief, &c.*

- As not confining mischievous Cattle, &c. 28
- Carrying sick Persons abroad in frosty  
Weather, &c. *Ibid.*
- Persons kil'd by Durefs of the Gaoler,  
Murder. *Ibid.*
- Murder by Poison, See Head *Poisoning*.

### *Killing of Children, Servants, &c.*

- Poisoning and Killing Bastard Children, &c. 36
- By the Mothers themselves, and others. *Ibid.*
- Concealing a Bastard Child, if dead, taken  
to be murdered *Ibid.*
- Correction of Children, to be with mode-  
rate Weapons 37
- Bar of Iron, Pestle, &c. no Instrument  
for Correction. 38
- A Husband correcting his Wife. *Ibid.*
- Shooting his Wife with a Pistol, not know-  
ing it to be charged. *Ibid.*
- Person killed parting Man and Wife fighting  
in his House. *Ibid.*
- A Man may defend his Room in a Tavern,  
and be no Murder. 39

Not

## The TABLE.

A Lodger kill'd a Person attempting to commit Burglary.	Page 39
Petit Treason, <i>vide</i> the separate Head.	
Killing Persons maintaining a forcible Possession.	<i>Ibid.</i>
Husband killing a Person committing Adultery with his Wife, Manslaughter.	42

### Manslaughter by Stabbing, &c.

———— Stabbing a Person, Clergy taken away.	<i>Ibid.</i>
———— Persons killing others, <i>se</i> <i>Defendendo</i> , &c. excepted.	43
———— What Weapons are within the Statute.	<i>Ibid.</i>
———— No Weapon must be drawn by the Person kill'd.	<i>Ibid.</i>
———— Persons abetting, only Accessaries.	44
———— Playing at Foils, &c. one kill'd, Manslaughter.	45
Justifiable Homicide, and Homicide excusable, See those Heads.	
When Infants may be guilty of Murder.	56
Murder on the Seas, how determined.	<i>Ibid.</i>
———— By the Constable and Marshal, Commissioners, &c.	<i>Ibid.</i>
———— Murder in one County, and Death in another.	57
———— Murder in <i>Wales</i> , tried in an <i>English</i> County.	<i>Ibid.</i>

### N.

Nose, to pull a Man by, a Provocation in Murder.	8
<i>Nul tiel in rerum Natura.</i>	88
Notice to move the Court in Case of Appeal.	170
———— <i>Narr'</i> in Appeal of Murder.	193
———— In Appeal of Maihem.	197

P. Poi-

# The T A B L E.

## P.

Poisoning, by Physicians, Apothecaries, &c. Page 29

—— Sending Poison to others. 30

—— Giving Poison to one, taken by another, is Murder. *Ibid.*

—— Leaving Poison in Places for Persons to take. 31

—— Extraordinary Case of a Man and his Wife poisoning themselves. *Ibid.*

—— Drinking Poison by the Persuasion of another. *Ibid.*

—— Persons absent, when Principals. 32

—— Poisoning, implies a Malice. *Ibid.*

—— The several ways a Man may be poisoned. *Ibid.*

—— The Case of Sir *Tho. Overbury* poisoned in the *Tower*, with a Clyster, by *Weston*. the Earl of *Somerset*, and Lieutenant of the *Tower*, &c. 32, 33, 34

—— Severe Punishments of Poison in former times. 35

## Petit Treason.

—— What it is. 40

—— In Servants, after a Servant discharged, &c. 41

—— In a Wife procuring a Stranger, &c. to kill her Husband. *Ibid.*

—— Wife and Servant conspiring. *Ibid.*

—— Principal and Accessary, &c. in Indictments and Appeals, &c. 42, 64, 115

See more, *Indictments*, &c.

Pardon, The King cannot pardon in Appeals of Murder, Rape, &c. 54, 122

Pleadings in Appeals. 117, 118, &c.

A Peer in Appeal tried by an Ordinary Jury, and not by his Peers.

Judgment



## The TABLE.

Judgment pronounced against Peers, &c. in Cases of Murder. Page 202

In what Cases the Execution hath varied from the Judgment, in relation to Noblemen. Ibid.

Principal and Accessary, *Vide* Titles, Appeals, Indictments, &c.

R.

Rape.

Rape, Appeals of, defined, by whom brought, &c. 2

Age, a Woman may be ravished at. 93

There must be Penetration, (*viz.*) *Res in re.* Ibid.

If a Woman conceive it is no Rape. Ibid.

Forced Consent, does not diminish the Crime. Ibid.

Rape formerly punished with Loss of Eyes, and Privy Members. 95

Woman ravish'd might demand the Man for her Husband. Ibid.

Chaste *Lucretia* ravished. Ibid.

A Ravisher declared attainted, Lady Botiler's Case. Ibid.

My Lord *Audley's* Case, and Trial for assisting in the Rape of his Lady. 96

Persons assisting, Principals. 97

Woman consenting to a Rape. Ibid.

The Case and Trial of a Woman ravished, and a lighted Torch put between her Legs. Ibid.

— Of two Females under ten Years of Age ravished. 98

— A Girl of ten Years ravished, and gave the Venereal Disease. Ibid.

— Indictment of Battery, where Penetration not proved. Ibid.

— Rape of a married Woman, and both found Guilty. 99

Rape;

## The TABLE.

Rape; Case at large of a Rape on a Female belonging to the Hundreds of <i>Drury</i> .	Page 99
Extraordinary Case and Trial of Rape and Murder.	100
Taking away a Woman by Force and marrying her, Felony.	101
Marrying a second Wife or Husband, the first living, the same.	<i>Ibid.</i>
The Trial of <i>Swindsen</i> executed for Stealing an Heiress.	<i>Ibid.</i>

### Precedents.

Indictment for a Rape.	182
For the Rape of a Woman Child under ten Years of Age.	<i>Ibid.</i>
An Assault with an Intent to ravish.	103
Against several Persons for procuring others to accuse a Man of Rape, &c.	104
Against my Lord <i>Audley</i> for the Rape of his Lady.	105
For stealing a Virgin.	<i>Ibid.</i>
For taking a Widow against her Will, that hath an Estate in Lands.	107
An Appeal of Rape.	199
Two others.	200
Appeal of Robbery.	<i>Ibid.</i>
Riots, Arrests (Murder in) <i>Vide Title Murder.</i>	

### S.

Seconds in Duelling.	10
Strabbing Persons, See <i>Manslaughter.</i>	42
Summons to attend in Appeals.	171

Treason

# The TABLE.

## T.

Treason, by the Common Law, Appeal lay for.

Page 4

How Indictments of Treason to be laid. 68

Trials in Rape, See Rape. 97, 98, 99, &c.

Of a Gentleman for stealing a Fortune,

&c.

101

How an Indictment and an Appeal tried at the same time.

120

## W.

Words no Provocation in Murder 8

Carry no Implication of Malice. *Ibid.*

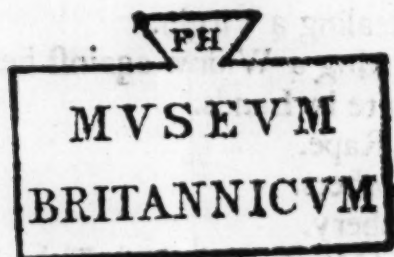
Words peculiar in all manner of Indictments. 61

Appropriated Words strictly observed.

*Ibid.*

Omitted in Appeals, the Consequence.

110, 111



FINIS.

LA

I. T

the Ch  
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Grants,

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Contrad

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Variety

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II. 71

Volume

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III. 2

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IV. 2

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